

# THE COURTS

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Adoption of Local Orphans' Court Rules Pursuant to Pa.O.C. Rule 1.5(e) and Pa.R.J.A. 103; Presi- dent Judge General Court Regulation No. 2016-2

##### Order

And Now, this 20th day of July, 2016, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 19, 2016 to adopt proposed Philadelphia County Local Orphans' Court Rules ("Local Rules") subject to review and modifications upon submission to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee ("Rules Committee") as required by Pa.O.C. Rule 1.5(e), now contained in Pa.R.J.A. 103(d), the proposed Local Rules having been submitted to the Rules Committee for review and, upon request by the Rules Committee, the Local Rules having been modified as requested by the Rules Committee, and the Rules Committee having now provided written confirmation that the Local Rules may be promulgated and published in the *Pennsylvania Bulletin*,

Now, therefore, *It Is Hereby Ordered and Decreed* that the following Philadelphia County Local Orphans' Court Rules are adopted and shall become effective September 1, 2016.

As required by Pa.R.J.A. 103(d), this General Court Regulation and the Local Rules being adopted has been submitted to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the Local Rules are not inconsistent with any general rule of the Supreme Court. This General Court Regulation shall be filed with the Office of Judicial Records (formerly the Prothonotary) as well as with the Clerk of the Orphans' Court, in a docket maintained for Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this General Court Regulation and Local Rules, as well as one copy of the General Court Regulation and Local Rules on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this General Court Regulation and Local Rules shall be filed with the Administrative Office of Pennsylvania Courts, published on the website of the First Judicial District at <http://courts.phila.gov>, and incorporated in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and Local Rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE SHEILA WOODS-SKIPPER,  
*President Judge, Court of Common Pleas  
Philadelphia County*

### PHILADELPHIA ORPHANS' COURT DIVISION RULES

#### CHAPTER I. PRELIMINARY RULES

##### Rule 1.1A. Short Title and Citation.

These Rules shall be known as the Philadelphia Orphans' Court Rules, shall be referred to individually herein as "Rule," and shall be cited as "Phila.O.C. Rule \_\_\_\_\_."

##### Rule 1.3A. Definitions.

"Legal Periodical"—*The Legal Intelligencer* shall be the legal periodical for the publication of legal notices in Philadelphia County, whenever publication in a legal periodical is required by Act of Assembly, or by Rule or order of Court.

##### Rule 1.8A. Forms.

Local Orphans' Court forms are set forth in the Appendix.

#### CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

##### Rule 2.4A. Additional Receipts and Disbursements.

Receipts and disbursements subsequent to the date to which the account was stated and to be included in the adjudication shall be set forth in the Petition for Adjudication/Statement of Proposed Distribution and in the audit notice.

**Probate Section Comment:** Generally, appearance slips should be used to inform the Court of minor errors or discrepancies in the account, or additional filing fees and other nominal expenses incurred by the accountant since the closing date of the account that are to be included in the adjudication.

##### Rule 2.4B. Papers to Be Filed With Accounts.

(1) *All Accounts.* Counsel shall electronically file the following papers contemporaneously with the account:

- (a) account filing checklist;
- (b) a Petition for Adjudication/Statement of Proposed Distribution;
- (c) copies of all agreements with respect to settlements and compromises;
- (d) copies of agreements, if any, with respect to the accountant's compensation, if credit therefor is taken in the account or requested at the audit;
- (e) a waiver of an income accounting by those entitled to the income, if the account does not contain a complete income accounting and such a waiver is not attached to the account;
- (f) the official receipt for any inheritance tax paid during the period of the accounting; and
- (g) a statement of the method and date of giving notice to all interested parties of the filing of the account and the Petition for Adjudication/Statement of Proposed Distribution and of the time of the audit, or alternatively, an averment that such notice shall be given and a certification thereof shall be submitted at the audit as hereinafter set forth. In those instances where notice has been given, a copy of said notice, as well as the names and addresses of the parties notified, shall be appended to the Petition for Adjudication/Statement of Proposed Distribution. In those instances where notice is yet to be given, a copy of said notice, as well as the names and addresses of the

parties notified, shall be submitted to the Court at audit, together with a statement executed by the accountant or the accountant's counsel certifying that notice has been given.

(2) *Accounts of Personal Representatives.* In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a personal representative, counsel shall electronically file:

(a) a copy of the original letters, together with proof of advertisement thereof; and

(b) a copy of the inventory and of the will and codicils, certified by the accountant or counsel to be true and correct.

(3) *Accounts of Trustees.* In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee, counsel shall electronically file a copy of the trust instrument, certified by the accountant or counsel to be true and correct.

(4) *Accounts of Trustees of Special Needs Trusts.* In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee of a special needs trust, counsel shall electronically file:

(a) a copy of the trust instrument, certified by the accountant or counsel to be true and correct;

(b) letter of No Objection from counsel for the Pennsylvania Department of Human Services; and

(c) statement of method and date of notice to Pennsylvania Department of Human Services Special Needs Trust Depository and Social Security Administration.

(5) *Accounts of Guardians of the Estates of Minors.* In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of a minor, counsel shall electronically file:

(a) a copy of the will, deed or decree by which the guardian was appointed;

(b) a statement that notice of the audit has been given to all known, unpaid claimants;

(c) a statement of the former minor or, if the former minor has been adjudicated an incapacitated person, of the guardian of the estate of the former minor, setting forth the date the former minor attained majority; and that the former minor or the guardian of the estate of the former minor:

(i) has examined the account;

(ii) approves the account and requests that it be confirmed; and

(iii) agrees that the guardian of the estate of the minor shall be discharged upon distribution to the former minor or to the guardian of the estate of the former minor of the balance shown in the account, subject to such additional credits as may be authorized by law and set forth in the adjudication.

(6) *Accounts of Guardians of the Estates of Incapacitated Persons.* In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of an incapacitated person, counsel shall electronically file:

(a) a statement of the manner and date of appointment of the guardian and a copy of the decree by which the guardian was appointed; and

(b) a statement of whether a personal representative has been appointed if the incapacitated person is de-

ceased; and if so, the date and place of grant of letters and a valid certificate of appointment.

(7) *Accounts of Agents under Power of Attorney.* In addition to the papers required by Rule 2.4B(1), at the time of filing an account of an agent under power of attorney, counsel shall electronically file a copy of the power of attorney, certified by the accountant or counsel to be true and correct.

(8) *Distribution to Foreign Fiduciary.* In addition to the papers required by Rule 2.4B(1), at the time of filing an account, when a share of the estate is distributable to a foreign fiduciary, counsel shall electronically file:

(a) a certificate of appointment issued within three months of the date of the filing or a copy of the instrument evidencing the authority of the fiduciary to receive the fund, certified by the proper authorities at the place of issuance to be in effect at the time of the filing;

(b) an affidavit by the foreign fiduciary setting forth whether or not an ancillary administrator has been appointed in Pennsylvania, together with averments that:

(i) the foreign fiduciary is authorized, under the laws of the jurisdiction in which the foreign fiduciary qualified, to receive the fund to be distributed;

(ii) the filing of security has been waived, or the amount of the bond which has been filed and the name of the surety; and

(iii) there are no creditors within the Commonwealth of Pennsylvania of the estate for which the foreign fiduciary has been appointed and no rights of any resident of Pennsylvania will be adversely affected by the requested distribution.

**Probate Section Comment:** The requirements of paragraph (8) are based on 20 Pa.C.S. § 4101 et seq. Particular attention is directed to Section 4111 and its correlation with paragraph (8)(b)(iii) of the Rule. Under Section 4111, the Court has broad discretionary power to refuse distribution of a share of an estate to the domiciliary personal representative of a deceased nonresident creditor or other distributee and to require an ancillary administration in Pennsylvania.

#### **Rule 2.5A. Advertisement of Accounts. Posting.**

The Clerk shall give notice of all accounts and of the time and place of the call of the audit list by:

(1) advertising once a week for two (2) successive weeks in *The Legal Intelligencer* and in one (1) Philadelphia daily newspaper of general circulation; and

(2) posting copies of the audit lists in the office of the Clerk.

#### **Rule 2.6A. Filing for a Particular Audit.**

An account to appear on a particular audit list must be electronically filed not later than 3 p.m. on the fifth Wednesday preceding the day on which such list will be called.

#### **Rule 2.6B. When Audit Lists Called. Postponed or Adjourned.**

Generally, the audit lists shall be called during the week beginning with the second Monday of September and the weeks beginning with the first Monday of other months. The call of an audit list may be postponed or adjourned at the discretion of the Auditing Judge or the Court. When the first Monday of the month falls on a holiday on which the Courts are closed, the audit list shall be called on the next business day.

**Rule 2.7A. Appearances at Audit.**

Counsel for the accountant, the accountant, and any other interested party appearing pro se who desires to raise objections or otherwise be heard, shall personally appear at the call of the audit list and enter an appearance on the form supplied by the Court.

**Rule 2.9A. Schedules of Distribution.**

(1) *Filing.* When directed by the Auditing Judge or at the election of the accountant, a schedule of distribution, in the form approved by the Court, shall be electronically filed with the Clerk. The Auditing Judge, in his or her discretion, may direct that only awards of real property or personal property, to be distributed in kind, need be included in the schedule of distribution.

(2) *Certification.* The attorney for the accountant shall certify that the schedule of distribution is correct and in conformity with the adjudication. See below (3)(a), (3)(b)(ii) and (6)(b) for additional statements to be included in the certification where appropriate.

**(3) Consent or Notice.**

(a) Written consents to the schedule of distribution may be attached thereto. The attorney for the accountant shall certify whether or not the parties whose consents are attached constitute all interested parties affected by the filing of the schedule of distribution and all other parties to whom notice was directed by the Court.

(b) Notice of the filing of the schedule of distribution shall be given to all interested parties affected thereby and to such other parties as the Court may direct, except those parties whose consents are attached. The notice shall state the date of filing, that a copy of the schedule of distribution accompanies the notice or will be sent upon request, and that any party who objects to the schedule of distribution must electronically file objections within twenty (20) days of the filing of the schedule of distribution under penalty that the Court may otherwise assume that there is no objection and may approve the schedule of distribution as filed.

(i) Notice shall be given no later than the day of the filing of the schedule of distribution, by a letter addressed to the last known address of the party or to his or her attorney of record.

(ii) It shall be sufficient return of notice for the attorney for the accountant to certify on the schedule that due notice of the filing thereof was given as required by this Rule. A copy of the letter of notice and a list of those to whom notice was sent shall be submitted with the schedule.

**(4) Objections.**

(a) Objections may be electronically filed within twenty (20) days of the filing of the schedule of distribution, and shall indicate the basis for the objections and in what respect the schedule of distribution fails to conform to the adjudication. In no event may objections raise questions which actually were or could have been raised at the audit of the account.

(b) Objections shall be electronically filed with the Clerk. The Auditing Judge shall re-examine the subject matter; may hold a hearing or argument thereon, at the Auditing Judge's discretion; and may make such disposition of the objections as the Auditing Judge deems proper in a supplemental adjudication.

**(5) Approval.**

(a) Where the consents of all necessary parties are attached, the Court may approve the schedule of distribution immediately upon filing. Where notice was given to any party, the Court may approve the schedule of distribution twenty (20) days after the filing thereof.

(b) In the absence of objections, the schedule of distribution shall become absolute on the date of approval thereof.

(c) Where objections have been filed and dismissed, the schedule of distribution shall be approved.

(d) Upon approval of the schedule of distribution, the accountant shall have the authority to make necessary assignments and transfers of any property awarded.

(6) *Confirmation of Title to Real Property.* Approval of the schedule of distribution shall constitute confirmation of title in the distributees.

(a) *Separate Awards.* A schedule of distribution shall set forth separate awards of real property in separate paragraphs.

(b) *Description.* Certification by Counsel. Real property shall be described in the same detail and with the same particularity as is commonly required to be included in deeds, and, in addition, shall include information pertinent to the derivation of title. Counsel for the accountant shall certify that counsel or counsel's agent has examined the last recorded deed or the record thereof in the public office for recording deeds in the county in which the real estate is located and that the description in the schedule of distribution is in conformity therewith.

(c) *Certification by Clerk.* The Clerk shall, upon request, certify excerpts from an approved schedule of distribution for recording in any public office for recording deeds.

(7) *Effect Upon Distribution.* When the matters which are the subject of a schedule of distribution, or the report of an auditor or master, are so separate and distinct that an objection to any one or more, whether sustained or dismissed, cannot affect the remainder, and the accountant will not be prejudiced by the distribution of such remainder, confirmation of the schedule of distribution or report shall not be suspended, except as to those matters to which objections have been taken; distribution may proceed as to the remainder; and any party from whom such distribution has been withheld may petition the Court to order distribution.

**Rule 2.10A. Content of Report for Foreign Heirs and Unknown Distributees.**

The report required by Pa.O.C. Rule 2.10(b) shall be submitted at the audit, and shall include, substantially, the following:

(1) *Unknown Distributee.* If it appears that the identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit a written report, verified by affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

(a) the nature of the investigation made to locate the heirs of the decedent, in complete detail; and

(b) in cases of intestacy, or where there are no known heirs, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

The term "investigation," as used in this Rule, shall include inquiry of or as to as many of the following as



may be pertinent and feasible: residents of the household in which the decedent resided; friends and neighbors; labor union membership; places of employment; social, fraternal, or beneficial organizations; insurance records; church membership; school records; social security, Veterans' Administration, or military service records; naturalization records, if not native born; and such other sources of information as the circumstances may suggest.

(2) *Non-Resident Distributee*. If the fiduciary requests the Court to withhold distribution to a non-resident distributee, he shall submit a written report, verified by the affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

(a) the relationship of the distributee to the decedent, and any available information concerning the distributee's present whereabouts;

(b) in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and

(c) the reasons for the request that distribution be withheld, and the suggested manner of withholding.

**Rule 2.11A. Charitable Trusts. Visitorial Powers.**

(1) *Exercise: In General*. In the exercise of its visitorial and supervisory powers over charitable trusts, in general, the Court will, in its discretion, from time to time, by general rule or special order, direct the official examiner, or a special examiner appointed for the purpose, to make an examination of the assets of a designated trust and an investigation to determine whether the purposes of the trust are being carried out in the manner provided by the trust agreement; and to submit to the Court a written report thereon which shall follow as nearly as may be the form prescribed by Pa.O.C. Rule 9.4 for a master's report and shall contain specific recommendation for the Court's consideration.

(2) *Cemetery Trusts*. In the exercise of its visitorial and supervisory powers over cemetery trusts, the Court will, from time to time, appoint a cemetery trust examiner, or examiners, who shall, periodically, inspect all cemetery lots and places of interment or sepulcher maintained under cemetery trusts subject to the jurisdiction of the Court; audit, informally, trustee's accounts pertaining thereto; examine the assets thereof; and submit written reports thereon to the Court in accordance with such rules and regulations as the Court will, from time to time, promulgate.

**Rule 2.11B. Termination of Trust.**

A trustee making distribution of the corpus of a trust upon its termination without formal accounting shall obtain from the distributees a receipt and waiver of accounting which shall be delivered to the examiner and attached to the examiner's report thereof. Such receipt and waiver shall not constitute an approval by the Court of the administration of the trust, nor operate as a discharge by the Court of the trustee or the trustee's sureties. If an estate is distributed without an accounting, the fiduciary shall be personally liable for the compensation of the examiner, unless provision is made therefor at the time of distribution.

**Rule 2.11C. Compensation.**

(1) *In General*. Each estate shall be liable for the compensation of the examiner based upon a schedule of fees fixed by the Court or as determined by the Court.

(2) *Cemetery Trusts*. The cemetery trust examiner, or examiners, appointed under Rule 2.11A supra, shall be paid by the trustees in an amount fixed by the Court.

**CHAPTER III. PETITION PRACTICE AND PLEADING**

**Rule 3.4A. Exhibits, Consents, Approvals, Checklists, and Attachments.**

Exhibits, consents, approvals, checklists, and attachments shall meet the requirements of Pa.O.C. Rule 1.8 and Rule 1.8A.

**CHAPTER IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT; ELECTRONIC FILING**

**Rule 4.2A. Method. Absentee Individuals and Presumed Decedents.**

Whenever notice is to be given to an absentee or a presumed decedent, it shall be given in the manner provided by Act of Assembly, or, in the absence thereof, in such manner as the Court by special order shall direct.

**Rule 4.7A. Electronic Filing and Service of Legal Papers.**

(1) *Electronic Filing*. Parties shall file all legal papers with the Clerk by means of electronic filing.

(2) *Website, Username and Password*.

(a) *Website*. The Orphans' Court Electronic Filing System shall be available at all times at the Court's website address, <http://courts.phila.gov>, or at such other website as the Court may designate from time to time.

(b) *Username and Password*. To obtain access to the Orphans' Court Electronic Filing System, counsel or a party not represented by counsel ("filing party") shall apply for a Username and Password at the Court's website.

(3) *Electronic Filing of Legal Paper*.

(a) A filing party shall file all legal papers and exhibits at the Court's website.

(b) The Clerk shall not maintain a hard copy of any legal paper or exhibit filed electronically under this Rule.

(c) A hard copy of the legal paper shall be signed and, as required, verified prior to the electronic filing of the legal paper, and the filing party shall retain such hard copy as required by Pa.O.C. Rule 4.7(c).

(4) *Redaction and Access*.

(a) All legal papers and exhibits filed electronically shall be available electronically to the filing parties, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(b) The Clerk shall provide public access to a redacted copy of electronically-filed legal papers and exhibits, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(c) The Clerk shall redact the following personal data identifiers from an electronically filed legal papers, including the Cover Sheet but excluding exhibits, for public access:

- (i) The name of the minor in minors' estates.
- (ii) Social Security numbers.
- (iii) Dates of birth.

- (iv) Financial account numbers.
- (v) Home addresses.

(d) A filing party shall redact the personal data identifiers listed in subsection (c) from all exhibits to a legal paper. The Clerk shall not review exhibits to determine whether personal data identifiers have been redacted.

(5) *Filing Date.*

(a) Immediately upon receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been received by the Court's Electronic Filing System.

(b) Within six (6) business hours of receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been accepted for filing or rejected.

(c) A legal paper accepted for filing shall be deemed to have been filed as of the date and time it was received by the Court's Electronic Filing System. If a legal paper is rejected, the Clerk shall specify the reason. Subject to the provisions of subsection (d), a rejected legal paper shall be deemed as not having been filed.

(d) Any filing party for whom the failure of the Court's website or the erroneous rejection of a legal paper resulted in an untimely filing may file a petition requesting that the legal paper be deemed filed as of the submission date. Such petition shall state the date and time of the alleged failure or rejection. A petition alleging failure of the Court's website shall state why the legal paper could not be timely filed in person in the Clerk's office. A petition alleging erroneous rejection of a legal paper shall state why the rejection was erroneous and why the legal paper could not be timely re-submitted.

(6) *Automation Fee. Payment of Filing Fees.*

(a) The Clerk shall collect, in addition to all other applicable fees, an automation fee of \$10.00 for each legal paper for which a filing fee is now charged.

(b) The Clerk is authorized to charge the sum of \$1.00 per page for each page of a legal document or exhibit which is not filed in pdf.

(c) All fees collected pursuant to this Rule shall be set aside by the Clerk and remitted to the First Judicial District and shall be used by the Court consistent with Pa.O.C. Rule 4.7(f)(2).

(d) The Clerk shall not accept a legal paper as filed before payment of the required filing fee.

(7) *Local Procedures.* The Court may develop further administrative procedures, as needed, to implement this Rule and to provide for security of the electronic filing system, as required by changing technology. All such administrative procedures shall be posted on the Court's website.

## CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

### Rule 5.2A. Family Exemption. Additional Requirements.

(1) *Contents of Petition.* A petition for the family exemption shall also set forth in separate paragraphs:

- (a) the name, residence and date of death of decedent;
- (b) the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent at the date of his death;

(c) if petitioner is the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;

(d) whether the decedent died testate or intestate; where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;

(e) the location and valuation of the property claimed; and

(f) that notice has been given in accordance with Pa.O.C. Rule 3.5 to the personal representative or, when no letters have been granted, to the parties adversely affected.

(2) *Exhibits.* In addition to those otherwise required, the following exhibits shall be attached to the petition:

(a) a copy of the will;

(b) a copy of the inventory showing the valuation of the property claimed, when the exemption is claimed from personal property, and the gross estate exceeds the amount of the family exemption provided by law; and

(c) a verified return of notice.

### Rule 5.2B. Allowance for Family Exemption.

(1) *Prior to Audit.* The petition may be electronically filed with the Clerk at any time prior to audit in order that the demand may be a matter of record.

(a) *Personal Property.* If the petition requests the exemption prior to audit, the petitioner shall electronically file the petition with the Clerk and thereafter shall give twenty (20) days' written notice of such filing to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of a responsive pleading, on presentation of a verified return of notice, an appropriate decree may be entered.

(b) *Real Property.* If the petition requests the exemption prior to the audit and the interested parties do not agree upon the valuation, the practice and procedure shall be as provided by Pa.O.C. Rule 5.2(a) and Rule 5.2C.

(2) *At Audit.* The filing of the petition prior to audit shall be brought to the attention of the Auditing Judge, or the request may be presented at the audit. The Auditing Judge may require that the property claimed be appraised or that notice be given in such manner as the Auditing Judge shall direct.

### Rule 5.2C. Appraisal. Notice. Confirmation.

(1) *Filing of Appraisal.* The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.

(2) *Notice of Appraisal.* Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate for the family exemption will be requested and may be allowed by the Court, of which not less than twenty (20) days' notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court shall direct.

(3) *Confirmation and Setting Apart of Allowance.* In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

**Rule 5.3A. Allowance to Surviving Spouse of Intestate. Additional Requirements.**

(1) *Contents of Petition.* A petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

(a) the information required in a petition for family exemption under Rule 5.2A, as far as appropriate;

(b) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and

(c) that notice has been given in accordance with Pa.O.C. Rule 3.5 to the personal representative; if no personal representative has been appointed, then to those interested as next of kin; if there are no next of kin, then to the Attorney General.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) if a ceremonial marriage occurred, a certified copy of the marriage certificate;

(b) if there were prior marriages by either spouse, a copy of the death certificate, if dissolved by death; or a certified copy of the decree of divorce by which such marriages were dissolved;

(c) a copy of the inventory and appraisement;

(d) a copy of any executed consent; and

(e) a verified return of notice.

**Rule 5.3B. Appraisal. Notice. Confirmation.**

(1) *Filing of Appraisal.* The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.

(2) *Notice of Appraisal.* Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate to the surviving spouse will be requested and may be allowed by the Court, of which not less than twenty (20) days notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court shall direct.

(3) *Confirmation and Setting Apart of Allowance.* In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

**Rule 5.4A. Petition for Citation to Restrain the Payment or Transfer of Property Under 20 Pa.C.S. § 2211(d).**

(1) *Contents of Petition.* The petition of an electing spouse shall set forth the following:

(a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;

(b) if an election has been filed, the date of the filing, and the date and method of notice to the decedent's personal representative of the filing;

(c) an averment that the property whose transfer or payment the petitioner seeks to restrain is property which may be subject to election as set forth in 20 Pa.C.S. § 2203 and a detailed description of the property to the extent known by the petitioner, which shall include the following:

(i) the nature of the property and its approximate fair market value;

(ii) the names of all persons holding title to the property at the time of the decedent's death and at the time of presenting the petition;

(iii) the identification of any fiduciary having an interest in the property; and

(iv) the nature of the decedent's interest in the property and the date of any transfers of any interest held by the decedent in the property;

(d) an averment that failure to restrain the transfer or payment of the property may result in irreparable injury to the petitioner;

(e) any other information relevant to the disposition of the petition; and

(f) a prayer for a citation, directed to all persons whom the petitioner alleges may transfer or make payments of the property described in paragraph (1)(c) hereof, to show cause why they should not be restrained from making payments or transfers of the aforesaid property.

(2) *Exhibits.* The following shall be attached to the petition:

(a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and

(b) consents to the relief requested signed by those interested parties who have consented thereto and who have not joined in the petition.

(3) *Service of Citation and Notice.* Service of the citation and notice on all interested parties shall be made in accordance with Pa.O.C. Rule 3.5(a).

(4) *Decree.* There shall be attached to the face of the petition:

(a) A preliminary decree in approved form awarding a citation as requested in the petition; and

(b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

**Rule 5.4B. Petition to Extend the Time for a Surviving Spouse to file for an Elective Share in Accordance With 20 Pa.C.S. § 2210(b).**

(1) *Contents of Petition.* A petition by a surviving spouse shall set forth the following:

(a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;

(b) the fact(s) relied upon to justify an extension of time in which to file an election;

(c) any other information relevant to the disposition of the petition; and

(d) a prayer for the extension requested.

(2) *Exhibits.* The following shall be attached to the petition:



(a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property which may be subject to the spouse's elective rights; and

(b) consents to the extension requested signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.

(3) *Notice.* Any interested party who does not join in the petition or consent to the extension shall receive notice of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(4) *Decree.* A proposed decree in approved form shall be attached to the face of the petition.

**Rule 5.5A. Appointment of Guardian ad litem or Trustee ad litem. Report Requirements.**

(1) *Time of Filing of Report.* The guardian ad litem and/or trustee ad litem shall electronically file the report within 60 days after appointment by the Court unless the time for filing is otherwise shortened or extended by (a) the Court or (b) agreement of the parties.

(2) *Contents of Report.* The report of the guardian ad litem and/or trustee ad litem shall contain the following:

(a) a statement of when, how and why the guardian ad litem and/or trustee ad litem was appointed;

(b) the identity and interests of persons on whose behalf the guardian ad litem and/or trustee ad litem has been appointed;

(c) a review of the account, if applicable;

(d) a statement of the legal and other issues involved and the position of the guardian ad litem and/or trustee ad litem with respect thereto;

(e) such other information as the guardian ad litem and/or trustee ad litem deems relevant; and

(f) the report may also contain a request by the guardian ad litem and/or trustee ad litem for compensation.

**Rule 5.6A. Minor's Estate. Restricted Account.**

(1) *Waiver of Security.* In lieu of the entry of security, the Court, in the decree appointing the guardian, may authorize the guardian to deposit the funds of the minor in an interest-bearing account or certificate of deposit in a bank with an office located in Philadelphia County in an amount not to exceed the insured amount; subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without order of Court. Proof of deposit evidencing the restriction shall be electronically filed with the Court within sixty (60) days.

(2) *Limitation.* An account or certificate of deposit under this Rule shall not exceed the amount which is fully insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

(3) *Additional Assets.* When the guardian has received assets in addition to the deposit or investment made in accordance with this Rule, the guardian shall account as if the restricted account did not form part of the estate.

(4) A depository in which a guardian of the estate of a minor has deposited the funds in a restricted savings account or certificate of deposit pursuant to Court order is authorized to release sufficient funds therefrom to pay income taxes levied by the state or federal government

upon said minor's estate upon the signature of the guardian without Court approval.

**Rule 5.6B. Minor's Estate. When Guardian Unnecessary.**

(1) *Disposition. In General.* If the value of the real and personal estate of a minor does not exceed the statutory limitation, the Court may:

(a) authorize payment or delivery thereof to the minor, or the parent or other person maintaining the minor;

(b) direct the deposit of the money in a restricted account, in the name of a natural guardian of the minor, or of the minor himself; or

(c) make such provision for the retention or deposit of securities or other assets, as the Court shall deem for the best interests of the minor.

(2) *Mortgage or Sale of Real Property.* If the entire estate of a minor does not exceed the statutory limitation, the Court, upon petition, may authorize the parent or other person maintaining the minor to convey or mortgage any real property forming a part or all of such estate, without the appointment of a guardian or the entry of security. The petition shall conform to the requirements of the Rules governing the sale or mortgage of real property by a guardian. The order of the Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

**Rule 5.6C. Minor's Estate. Allowances.**

(1) *In General.*

(a) *Responsibility of Guardian.* Expenditures from income for the benefit of the minor should ordinarily be made by the guardian upon the guardian's own responsibility without application to the Court for approval.

(b) *Petitions. Permissive. Mandatory.*

(i) *Permissive.* The guardian may petition the Court for approval of periodical payments from income needed for the maintenance, support or education of the minor, the minor's spouse or children.

(ii) *Mandatory.* No payments shall be made by the guardian, unless approval by the Court is first obtained, when payment is to be made from principal.

(2) *Contents of Petition. Allowance for Maintenance, Support or Education.* A petition for an allowance from a minor's estate, for the maintenance, support or education of the minor, the minor's spouse or children, shall set forth:

(a) the manner of the guardian's appointment and qualification, and the dates thereof; and the terms of the instrument creating the estate;

(b) the age and residence of the minor; whether the minor's parents are living; the name of the person with whom the minor resides; and, if married, the name and age of the minor's spouse and children;

(c) the value of the minor's estate, real and personal, and the net annual income;

(d) the circumstances of the minor, whether employed or attending school; if the minor's mother or father, or other person charged with the duty of supporting the minor, is living, the financial condition and income of such person and why such person is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor, or the minor's spouse and children;

(e) the date and amount of any previous allowance by the Court, and the name of the Judge who granted it;

(f) the financial requirements of the minor and the minor's family unit, in detail, and the circumstances making such allowance necessary; and

(g) if the petition is presented by someone other than the guardian, that demand was made upon the guardian to act, and the reason, if any, given by the guardian for the guardian's failure to do so.

(3) *Contents of Petition. Allowance of Counsel Fee.* A petition for the allowance of counsel fee shall set forth the views of the guardian with respect to the reasonableness of the fee and contain sufficient facts to enable the Court to pass judgment on the matter. The following exhibits shall be attached to the petition:

(a) a statement of counsel setting forth in detail the nature and extent of the services performed;

(b) the joinder of the minor's parents or surviving parent; or, if both parents are deceased; the joinder of the adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor, and in all cases of a married minor, of his or her spouse; and

(c) the joinder of the minor, if over eighteen (18) years of age.

**Rule 5.10A. Petitions for Leave to Sell Real Property at Public Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**

(1) *Contents of Petition.*

(a) A petition by a personal representative shall set forth the following information:

(i) the name, residence and date of death of the decedent; whether he died testate or intestate; and the date letters were granted to the petitioner;

(ii) that the petitioner is not otherwise authorized by statute to sell; or is not authorized to do so by the will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(iii) the total value of the property set forth in the inventory and the date it was filed;

(iv) the value at which the real property to be sold was included in the inventory;

(v) if bond was entered, the name of the surety and the amount of such bond;

(vi) the names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale;

(vii) the street address or other adequate description of the property to be sold, a brief description of the building erected upon the property, the current occupant of the property and the current tax assessment;

(viii) a list of all liens of record known to the petitioner; and

(ix) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(b) A petition by a trustee shall set forth the following information:

(i) how title was acquired, stating the date and place of probate of the will or recording of the deed to the trustee;

(ii) a recital of the relevant provisions of the will, deed or trust agreement pertaining to the real property to be sold and a recital of the history of the trust;

(iii) that the petitioner is not otherwise authorized to sell by statute or the will, deed, trust agreement or other relevant instrument; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(iv) the total approximate current value of property held in trust; and

(v) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(c) A petition by a guardian of a minor's estate shall set forth the following information:

(i) the circumstances of the petitioner's appointment;

(ii) the name, age and residence of the minor; the names of the minor's parents and whether either of them is deceased;

(iii) how title was acquired;

(iv) if an inventory was filed, the total value of the property set forth therein and the date it was filed, and the value at which the real property to be sold was included therein;

(v) the total approximate current value of property held by the petitioner;

(vi) a recital of the provisions of the will, deed, trust agreement or other relevant instrument relating to the real property to be sold;

(vii) that the petitioner is not authorized to sell the real property; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(viii) the nature and extent of the interest of the minor, of the petitioner and of third persons in the real property;

(ix) sufficient information to enable the Court to find that the proposed sale is in the best interest of the minor; and

(x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(d) A petition by a guardian of an incapacitated person's estate shall set forth the following information:

(i) the date of the petitioner's appointment and the name of the Hearing Judge;

(ii) the domicile of the incapacitated person and the institution, if any, at which the incapacitated person is maintained;

(iii) how title was acquired;

(iv) the total value of the property set forth in the inventory and the date it was filed;

(v) the value at which the real property to be sold was included in the inventory;

(vi) the total approximate current value of property held by the petitioner;

(vii) a statement of all claims of the incapacitated person's creditors known to the petitioner;

(viii) sufficient information to enable the Court to find that the proposed sale is in the best interest of the incapacitated person;



(ix) if the property to be sold is the incapacitated person's former residence, an averment that he is not likely to return to live in it; and

(x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed; and

(b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.

(3) *Notice of Petition for Public Sale.* Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(4) *Decree.* A proposed decree providing that the real property be offered for public sale and that a return of sale be electronically filed with the Court shall be attached to the face of the petition.

(5) *Notice of Public Sale.* Notice and advertisement of the public sale of real property shall specify the time and place of the proposed sale, clearly identify the property by street address or other adequate description, and be given:

(a) by advertisement in the legal publication, if any, designated by Rule of Court of that county for publication of notices, the publication to be made not less than twenty (20) days before the date of sale;

(b) as ordered by the Court, by advertisement in a newspaper of general circulation in each county wherein any portion of the real estate is located;

(c) by posting a notice at a conspicuous place on the premises; and

(d) at least twenty (20) days prior to sale, by notice to each interested party by service on the attorney appearing of record for such party, or if there is no such attorney, by personal service or, if the party's residence is known, by delivery at such residence or by mail.

(6) *Post-Sale Return of Notice.* The petitioner shall electronically file with the Court an affidavit which shall set forth:

(a) The price obtained;

(b) The name and address of the purchaser and an averment that the purchaser was the highest bidder; and

(c) Proof of notice given as required by Rule 5.10A(5), including dates of publication.

**Rule 5.11A. Petitions for Leave to Sell or Exchange Real Property at Private Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**

(1) *Contents of Petition.* A petition under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10A with regard to a petition to sell real property at public sale and, in addition, it shall set forth the following information:

(a) the name and address of the purchaser and a brief recital of the terms of sale; and

(b) the estimated net proceeds which the petitioner will receive at the time of settlement.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;

(b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them;

(c) a copy of the agreement of sale;

(d) a schedule setting forth the computation of the estimated net proceeds which the petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and

(e) the affidavits of two real estate appraisers or brokers not of the same office, setting forth the information required under Pa.O.C. Rule 5.11(b).

(3) *Notice.* Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(4) *Decree.* A proposed decree approving the sale and, where appropriate, fixing the amount of security to be entered by the petitioner shall be attached to the face of the petition.

**Rule 5.12A. Petition for Leave to Mortgage or Lease Real Property Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**

(1) *Contents of Petition.* A petition by a fiduciary under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10A with regard to a petition to sell real property at public sale by the same fiduciary; and, in addition, it shall set forth the name of the proposed mortgagee or lessee, the amount and terms of the proposed mortgage loan or lease and sufficient facts to enable the Court to determine whether the proposed mortgage or lease should be approved.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;

(b) consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them; and

(c) a statement by the proposed mortgagor agreeing to grant the mortgage loan.

(3) *Notice.* Any interested party who does not join in the petition or consent to the mortgage or lease shall receive notice of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(4) *Decree.* A decree in approved form shall be attached to the face of the petition approving the mortgage or lease and, where appropriate, fixing the amount of security to be entered by the petitioner.

**Rule 5.13A. Public Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.***(1) Contents of Petition.*

(a) *Trustee.* A petition to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq. shall also set forth in separate paragraphs:

(i) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(ii) a full description of the real property, its improvements, by whom it is occupied, its rental value, the current tax assessment, and the liens and charges to which it is subject;

(iii) the interest of the petitioner, if a fiduciary, how and when such fiduciary was appointed; if other than a fiduciary, the name of the fiduciary, if any, and how and when such fiduciary was appointed;

(iv) a recital of the history of the trust, and of the relevant provisions of the will or deed pertaining to the real property to be sold; the names of all parties and the nature and extent of their interests, stating which, if any, are minors or incapacitated persons, and giving the names and record of appointment of their guardians, if any; and the names of the next of kin and the age of any minors;

(v) the limitations or defeasibility from which title is to be freed, following as closely as possible the language of 20 Pa.C.S. § 8301; and that the purpose of the proceeding is to obtain a decree stating that the title transferred to the purchaser shall be indefeasible by any person ascertained or unascertained, or by any class of persons mentioned in the petition or decree having a present or expectant interest in the premises, and unprejudiced by any error in the proceedings of the Court;

(vi) sufficient facts to enable the Court to determine whether the proposed sale will be to the interest and advantage of the parties, and whether the said sale may be made without prejudice to any trust, charity, or purpose for which the real property is held, and without the violation of any law which may confer an immunity or exemption from sale or alienation; and

(vii) the names of any parties who do not voluntarily appear.

(b) *Guardian.* A petition by a guardian to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

(i) that the petitioner was appointed guardian of the estate of the minor, stating the method, date and record of appointment; or, if the estate of the minor consists of an interest in real property of a value not exceeding the statutory limitation provided in 20 Pa.C.S. §§ 5101 and 5102, that the petitioner is the natural guardian, or the person by whom the minor is maintained, stating the relationship of the petitioner to the minor;

(ii) the interest of the minor and a full description of the real property proposed to be sold; its improvements; by whom it is occupied; its rental value; the current tax assessment; and the liens and charges to which it is subject;

(iii) whether title was acquired by will, descent or deed, the date of decedent's death, the date and place of probate of the will or recording of the deed with respect to the real property proposed to be sold; and if the interest of the minor is partial, the names of the other parties, the nature of their interest, that they desire the sale to be made, and are willing to join in the deed;

(iv) the age of the minor; the names of his or her next of kin; and the notice given them of the filing of this petition; and

(v) sufficient facts to enable the Court to determine that it would be in the interest of such minor that the real property be sold.

(2) *Exhibits.* The following exhibits shall be attached to a petition by a fiduciary to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq.:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed; and

(b) consents to the sale signed by those interested parties who consent thereto, and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) *Notice. Security.* The practice and procedure with respect to the entry of security and notice shall conform to the appropriate provisions of Rule 5.10A(1)(a)(v) and Rule 5.10A(5).

**Rule 5.13B. Private Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.***(1) Contents of Petition.*

(a) *Trustee.* A petition by a trustee to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

(i) the information required under Rule 5.13A(1);

(ii) the name and address of the proposed purchaser, the price to be paid; the terms of the proposed sale; and that the price offered is better than can be obtained at a public sale; and

(iii) when the proposed sale is of an undivided interest, that the other interested parties desire the sale to be made and are willing to join in the deed.

(b) *Guardian.* A petition by a guardian to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

(i) the information required under Rule 5.13A(2); and

(ii) the name and address of the proposed purchaser, the price to be paid, the terms of the proposed sale, and that the price offered is better than can be obtained at a public sale.

(2) *Exhibits.* The following exhibits shall be attached to a petition by a fiduciary to sell real property at private sale under 20 Pa.C.S. § 8301 et seq.:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed;

(b) a copy of the agreement of sale;

(c) affidavits by two real estate appraisers setting forth the information required by Pa.O.C. Rule 5.10(b); and

(d) consents to the sale signed by those interested parties who consent thereto and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as

petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) *Notice. Security.* The Court, in the decree approving or confirming the sale, will fix the amount of security which the fiduciary shall be required to enter. The practice and procedure with respect to notice shall conform to the appropriate provisions of Rule 5.11A.

**Rule 5.13C. Mortgage of Inalienable Property under 20 Pa.C.S. § 8301.**

(1) *Contents of Petition.* A petition by a fiduciary to mortgage real property, under 20 Pa.C.S. § 8301 et seq., shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed loan; and shall set forth sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(2) *Exhibits. Security.* The exhibits required by Rule 5.12A(2) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304. Security shall be fixed as provided by Rule 5.12A(4).

**Rule 5.13D. Real Estate or Fiduciaries in Other Counties of Inalienable Property. 20 Pa.C.S. § 8301.**

(1) Fiduciaries whose appointments originated in this county shall obtain leave of this Court to petition the Court of another county of this Commonwealth, under 20 Pa.C.S. § 8301 et seq., to sell or mortgage real property located in that county. Such leave may be obtained by petition to this Court setting forth briefly the substantial averments of a petition for the sale or mortgage of real property.

(2) Fiduciaries whose appointments originated in other counties of this Commonwealth shall obtain leave of the Court of their appointment to petition this Court under 20 Pa.C.S. § 8301 et seq. to sell or mortgage real property located in this county. The petition to this Court shall comply with the provisions of these Rules with regard to the sale or mortgage of real property, and shall include, as exhibits, copies of the petition and of the decree of the Court of origin.

**Rule 5.16A. Settlement of Small Estates under 20 Pa.C.S. § 3102.**

(1) *Contents of Petition.* A petition for the settlement of a small estate shall set forth:

(a) the name, date of death and residence of the decedent;

(b) the name and address of the petitioner and petitioner's relationship to the decedent;

(c) if petitioner is the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;

(d) whether the decedent died testate or intestate; if letters were granted, where, to whom and when they were granted; and the amount of bond (if any) given by the personal representative;

(e) the names, relationships and a brief description of the interests of all persons entitled to share in the decedent's estate under the will or intestate laws; a statement as to whether any of them is a minor, an incapacitated person or deceased, with the name of his or her fiduciary, if any; and a statement as to whether any of them has received or retained any property of the decedent under 20 Pa.C.S. § 3101, or otherwise;

(f) the person or persons, if any, entitled to the family exemption and, if a claim is to be made in the petition, any additional facts necessary to establish the right thereto, as required by Pa.O.C. Rule 5.2 and Rule 5.2A;

(g) a list of the assets of the decedent and the value of each asset, either incorporated in the petition or attached as an exhibit;

(h) an itemized list, either incorporated in the petition or attached as an exhibit, setting forth under separate headings:

(i) all disbursements made prior to the filing of the petition, including the amounts and dates paid, the names of the payees and a description of the purposes of the disbursements; and

(ii) all unpaid claims against the estate, including the amounts of such claims, the names of the claimants, the bases for such claims and indicating which claims are admitted. In the case of an insolvent estate,

(iii) such disbursements and unpaid claims shall be listed under separate categories according to the order of priority of payment under 20 Pa.C.S. § 3392 for insolvent estates.

(i) an averment as to the status of the inheritance tax;

(j) an averment that twenty (20) days written notice of the filing of the petition has been given to every unpaid beneficiary, heir or claimant who has not joined in or consented to the petition, and, if the decedent's heirs are unknown, to the Attorney General; and

(k) a prayer for distribution of the personal property to those entitled and, in appropriate cases, for the discharge of the personal representative and the release of any surety.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) a copy of the decedent's will certified by counsel to be a true and correct copy;

(b) consents to the petition signed by those unpaid beneficiaries, heirs and claimants who do not join in the petition, and the names of any of them who do not consent and a copy of the notice which has been given to them; and

(c) a copy of the official Inheritance Tax Assessment and, if an inheritance tax payment was made prior to the date of filing the petition, a copy of the inheritance tax receipt.

(3) *Notice.* Any interested party who does not join in or consent to the petition shall receive notice of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(4) *Decree.* A proposed decree, setting forth a list of all disbursements and distributions of the assets of the estate and, in appropriate cases, providing for the discharge of the personal representative and the release of any surety, shall be attached to the face of the petition.

(5) *Appraisal.* No appraisal of the decedent's personal property is required, unless ordered by the Court.



**Rule 5.16B. Procedure for Determination of Title to Decedent's Interest in Real Estate under 20 Pa.C.S. § 3546.**

(1) *Contents of Petition.* A petition under 20 Pa.C.S. § 3546 for the determination of title shall set forth:

(a) the name of the petitioner and petitioner's relationship to the decedent;

(b) the facts on which the claim of the petitioner is based;

(c) whether the decedent died testate or intestate, and where, when, and to whom letters were granted;

(d) a description of real property located within the Commonwealth, and the place, book, and page of recording the last deed thereto;

(e) the names and addresses of all known creditors and interested parties; and

(f) the facts material to a determination of the title.

(2) *Exhibits.* The following exhibits shall be attached to the petition:

(a) the notice which has been given to creditors, and interested parties; if the heirs of the decedent are unknown, a copy of the notice given to the Attorney General; and

(b) a copy of decedent's will.

**Rule 5.16C. Petitions to Fix or Waive Additional Security under 20 Pa.C.S. §§ 3351 and 7780.6(a).**

(1) *Contents of Petition.*

(a) In a sale, whether public or private, of real property without benefit of an order of Court directing or authorizing such sale, where a personal representative or trustee was required to give a bond, a petition by a personal representative or trustee shall set forth the following information:

(i) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; and the date letters were granted to the petitioner;

(ii) the total value of all assets set forth in the inventory;

(iii) the value at which the real property to be sold was included in the inventory;

(iv) if bond was entered, the name of the surety and the amount of such bond;

(v) the street address or other adequate description of the property to be sold; a brief description of the building erected on the property; the current occupant of the property; and the current tax assessment;

(vi) the name and address of the purchaser and a brief recital of the terms of the sale;

(vii) the estimated net proceeds which petitioner will receive at the time of settlement;

(viii) a list of all liens of record known to petitioner;

(ix) the names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale; and

(x) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(b) A petition by a trustee shall set forth the following information:

(i) how title was acquired;

(ii) a recital of the relevant provisions of the will, trust agreement, deed or other relevant instrument pertaining to the real property to be sold;

(iii) the estimated value of all assets currently held in trust; and

(iv) the same information required under paragraph (a)(iv) through (x) in a petition by a personal representative.

(2) *Notice.* Any interested party who does not join in the petition or consent to the sale shall receive notice of the terms of sale and of the filing of the petition in accordance with Pa.O.C. Rule 3.5.

(3) *Exhibits.* Attached to the petition shall be the following:

(a) a copy of the will, trust agreement, deed, or other relevant instrument;

(b) a copy of the agreement of sale;

(c) a schedule setting forth the computation of the estimated net proceeds which petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and

(d) consents to the sale signed by those interested parties who do not join in the petition, and the names and addresses of those parties who do not consent and a copy of the notice which has been given to them.

(4) *Appraisals.* No appraisal shall be required where counsel for petitioner certifies that:

(a) in counsel's opinion the estate is solvent; and

(b) counsel knows of no objection to the sale by an interested party. In the absence of such certification, an appraisal by a qualified appraiser shall be presented with the petition. The Court may order the appointment of an appraiser in any case where it deems it appropriate or necessary for the disposition of the petition.

(5) *Decree.* A proposed decree shall be attached to the face of the petition. In the decree the Court shall fix the amount of security which the petitioner shall be required to enter, or excuse the petitioner from entering additional security. The corporate surety shall be the same as on the original bond, unless the Court directs otherwise.

(6) *Specific Petitions.*

(a) *Petition by a Personal Representative or a Trustee:* When a personal representative or trustee is required to petition the Court to have additional security fixed or waived under Rule 5.16C, the sale must meet with Court approval; otherwise personal representatives and trustees have statutory authority to sell real property without Court approval unless a specific devisee of the real property refused to join in the sale, the personal representative or trustee wishes to bid on the property, or the governing instrument denies the power to sell. See 20 Pa.C.S. §§ 3351, 3353, 3356 and 7780.6(a).

(b) *Petition by a Guardian of a Minor's Estate:* A guardian of a minor's estate may be appointed by order of Court, by will in accordance with 20 Pa.C.S. § 2519(b), or by instrument of conveyance in accordance with 20 Pa.C.S. § 5115. A Court appointed guardian does not have the power to sell real property without Court approval. See 20 Pa.C.S. § 5155. A will or instrument of

conveyance appointing a guardian may give the guardian power to sell without Court approval. See 20 Pa.C.S. § 5146(a).

(c) *Petition by a Guardian of an Incapacitated Person's Estate:* A guardian of an incapacitated person's estate does not have the power to sell real estate without Court approval.

(d) With respect to petitions to sell real property under the Inalienable Property Act, See 20 Pa.C.S. § 8301 et seq. See Rules 5.13A to 5.13D.

(e) The procedure and the information required for a petition for the private sale of real property to pay debts of a decedent shall conform, as nearly as practicable, to the procedure and information required of a petition presented under Rule 5.11A.

**Rule 5.16D. Approval of Corporate Fiduciaries. Security.**

(1) *In General.* Financial institutions having fiduciary powers and authorized to do business in this Commonwealth, upon petition and pursuant to approval by the Court, may act as fiduciaries in matters pending in the Court, provided that a copy (either the original or photocopy) of the certificate evidencing the approval to conduct fiduciary activities issued by the appropriate state or federal banking regulator is attached to the petition. The institution shall certify in the petition that the certificate has been issued by the appropriate regulator and is valid as of the date of the petition.

(2) *Period of Approval.* The approval granted by the Court under paragraph (1) of this Rule shall be for a period of one year running from January 1 to December 31. In order for approval to be granted or renewed in a timely fashion, an institution must file this petition on or before December 15 in the year preceding the year in which the institution wishes to act as a corporate fiduciary. The approval granted by the Court is subject to compliance by the institution with these Rules and with such other rules and regulations governing approval or renewal as the Court will, from time to time, promulgate.

(3) *Security.* Except when required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

**Rule 5.16E. Petition to Enforce the Rights of an Electing Spouse under 20 Pa.C.S. § 2201 et seq.**

(1) *Contents of Petition.* The petition by an electing spouse shall set forth the following:

(a) the name, date of death and residence of the decedent;

(b) the name and address of the petitioner, and the petitioner's residence on the date of the decedent's death;

(c) an averment that the petitioner is the surviving spouse of the decedent; the date and place of the ceremonial marriage, and the name and the official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;

(d) whether the decedent died testate or intestate; if letters were granted, where, to whom and when they were granted;

(e) the approximate value of all assets which may be subject to the spouse's election, to the extent known by petitioner;

(f) the date of the filing of the election, and the date and method of notice to the decedent's personal representative of the filing;

(g) a description of the party or parties against whom relief is sought, including whether each party is a fiduciary, custodian or obligor, and whether each is the original beneficial recipient or a successive donee to the property or its proceeds;

(h) a description of the relief sought, describing the specific acts to be performed or the extent of the personal liability to be imposed;

(i) any other information relevant to the disposition of the petition; and

(j) a prayer for a citation to show cause why the relief sought should not be granted, or if no citation is required, a prayer for the relief requested.

(2) *Exhibits.* The following shall be attached to the petition:

(a) a copy of the decedent's will, trust agreement, deed or other relevant instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and

(b) consents to the relief requested signed by those interested parties who have consented thereto and who have not joined in the petition.

(3) *Service of Citation and Notice.*

(a) *Petitions Requiring the Issuance of a Citation.*

(i) In accordance with Pa.O.C. Rule 3.5(a), service of the citation shall be made on all parties to whom the citation is directed, and the original citation with proof of service endorsed or annexed thereon shall be filed with the Clerk.

(ii) Petitioner shall give written notice to all other interested parties who have neither joined in the petition nor consented to the requested relief by letter and copy of citation mailed to all such parties at least twenty (20) days prior to the return date of the citation.

(iii) Counsel to petitioner shall electronically file with the Clerk, prior to the return date of the citation, a certification of mailing which shall list the names and addresses of all parties to whom notice was so given, including a copy of the notice given.

(b) *Notice in the Case of Petitions Not Requiring the Issuance of a Citation.* In accordance with Pa.O.C. Rule 3.5(b), petitioner shall give written notice of the filing of the petition to the Court and shall attach to the petition a certification in the form required by Pa.O.C. Rule 3.5(a),(b).

(4) *Decree.* There shall be attached to the face of the petition:

(a) In the case of petition requiring the issuance of a citation, a preliminary decree in approved form awarding a citation as requested in the petition; and

(b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

**Rule 5.16F. Fiduciaries in Military Service. Appointment of Substituted Fiduciary Pro Tem under 20 Pa.C.S. § 4301.**

(1) *Contents of Petition.* A petition under 20 Pa.C.S. § 4301 shall set forth:

(a) the facts necessary to confer jurisdiction upon the Court;

(b) the estimated value of the estate;

(c) the names of all interested parties, the nature and extent of their interest, stating who are minors or incapacitated persons, whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent;

(d) that notice in accordance with Pa.O.C. Rule 3.5 has been given to all interested parties;

(e) the name and address of the person proposed as a substituted fiduciary pro tem, if such an appointment is requested; the nature and relationship of such person to the estate or to the parties; and

(f) such other facts as may be necessary to enable the Court to pass judgment on the matter.

(2) *Exhibits.* A copy of the will, deed, trust agreement or other relevant instrument, the consent of the co-trustees and a verified return of notice shall be attached to the petition.

#### CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

##### Rule 7.1A. Philadelphia Orphans' Court Division Practice.

(1) Except upon agreement of counsel, leave to take depositions, or obtain discovery or the production of documents, may be granted only on petition upon cause shown.

(2) Where leave has been granted by the Court, the procedure relating to depositions, discovery, and the production of documents shall be governed by the order of the Court.

##### Rule 7.1B. Pre-Trial Conference.

(1) In any action the Court, on its own motion or on motion of any party, may direct counsel for the parties to appear for a conference to consider:

(a) The identification of the issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; and

(d) Such other matters as may aid in the disposition of the action.

(2) The Court may make an order reciting the action taken at the conference, identifying the issues for trial, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered.

##### Rule 7.2A. Motion for Judgment on the Pleadings.

After the relevant pleadings are closed, but within such time as to not unreasonably delay the trial, any party may file a motion on the pleadings as follows:

(1) The moving party shall file a motion attaching thereto a copy of all pleadings which must be considered by the Court and a brief or memorandum of law, which shall be served on all other parties as required by Pa.O.C. Rule 4.3;

(2) The non-moving parties shall file a response within twenty (20) days of the service of the motion, may attach

any document, pleading or item not attached by the moving party, and shall include a brief or memorandum of law;

(3) Any interested party may request oral argument. The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

##### Rule 7.3A. Motion for Summary Judgment.

(1) *General Rules.* After the relevant pleadings are closed, but within such time as to not unreasonably delay trial, and in accord with any case specific case management Order, any party may file a motion for summary judgment, as provided in Pa.R.C.P. No. 1035.1 et seq., and this Rule.

(2) *Content of the Motion for Summary Judgment.* The moving party shall provide the bases for the entry of summary judgment in a motion divided into consecutively numbered paragraphs. Each paragraph shall contain as far as practicable only one material allegation. The moving party must reference in each allegation the "record" (as that term is defined in Pa.R.C.P. No. 1035.1) which the moving party wants the Court to consider, and shall attach a copy of that record as an exhibit. The moving party shall include with the motion a brief or memorandum of law. The brief or memorandum of law shall provide the Court with the legal bases for summary judgment in light of the allegations made in the motion, and shall not reference any fact or pleading not raised in the motion. Any fact or allegation mentioned in the brief or memorandum of law which is not listed in the summary judgment motion will not be considered by the Court.

(3) *Service of Summary Judgment Motion.* The summary judgment motion, exhibits and brief or memorandum of law must be served on the party or parties against whom summary judgment is requested, as provided in Pa.O.C. Rule 4.3.

(4) *Response to Motion for Summary Judgment.* The adverse party or parties must electronically file a response to the motion for summary judgment within thirty (30) days of service of the motion, as provided in Pa.R.C.P. No. 1035.3. The response to the motion shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion for summary judgment. The response shall state whether each allegation is admitted or denied. No general denial is acceptable. The factual reasons for the denial or dispute must be specifically stated and the "record," (as that term is defined in Pa.R.C.P. No. 1035.1) supporting the denial or disputed must be attached as an exhibit. A response may also include additional allegations demonstrating any genuine issue of material fact, in which event the responding party must reference and attach a copy of the "record," (as that term is defined in Pa.R.C.P. No. 1035.1) which demonstrates the existence of a genuine issue of material fact.

(5) *Any interested party may request oral argument.* The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

#### CHAPTER IX. AUDITORS AND MASTERS

##### Rule 9.1A. Appointment.

(1) *Auditor to Examine and Audit Account.* An auditor to examine and audit an account may be appointed by the Court when all interested parties, or their counsel, consent thereto in writing.



(2) *Auditor to State Account.* An auditor to state an account may be appointed by the Court when a proper account cannot be obtained from a fiduciary. Such appointment may be made sua sponte or upon petition of any interested party. The auditor may be required to electronically file the account and to participate in such further proceedings as the Court may direct.

(3) *Master. Amicus Curiae.* A master or an amicus curiae with the powers of a master may be appointed by the Court, sua sponte or upon petition of any interested party.

**Rule 9.1B. Manner of Notice and to Whom Given.**

(1) The Court appointed auditor, master, or amicus curiae shall give written notice of such appointment and of the time and place of such appointee's first hearing to all persons who have appeared of record, and to such other persons and in such manner as the Court may direct.

(2) Notice of succeeding hearings given by the auditor, master or amicus curiae shall be given in accordance with Rule 9.1B(1).

**Rule 9.2A. Where Filed.**

Reports of auditor, master, and amicus curiae shall be filed with the Clerk.

**Rule 9.6A. Time and Contents of Notice.**

Auditors, masters and amicus curiae with the powers of a master shall give thirty (30) days notice prior to the filing of the report to all interested parties or their counsel with the same information as required in the notice for filing an account, as provided in Pa.O.C. Rule 2.5. A copy of the report shall also be provided at the time notice is given.

**Rule 9.7A. Confirmation of Report. Objections.**

(1) *Objections to Report.* Within twenty (20) days of receiving notice of the filing of the report, any interested party may file with the auditor written objections to the report. In such event, the auditor shall have ten (10) days to supplement the report by a full consideration of the objections seriatim, setting forth concisely all reasons for recommending that the Court sustain or dismiss each objection. The auditor shall then file the report with the Clerk, which will then be submitted to the Appointing Judge, together with a copy of the objections and the supplemental report, giving the interested parties or their counsel concurrent notice of such filing and a copy of the supplemental report. The Appointing Judge shall make such disposition thereof as the Court deems proper.

(2) *Objections to Auditor Stated Account.* Objections to the report of an auditor who states an account shall be asserted as objections to the auditor's account, and shall be in the form provided in Pa.O.C. Rule 2.7.

**Rule 9.8A. Security for Expenses and Fees.**

The Court may require that security be posted for the compensation and expenses of the auditor, master, or amicus curiae.

**CHAPTER X. REGISTER OF WILLS**

**Rule 10.1A. Register of Wills—Forms Required to be Used.**

The following forms, approved by the Supreme Court, are required pursuant to Pa.O.C. Rule 10.1, to be used in proceeding before the Register of Wills:

- (1) Estate Information Sheet (RW-01)
- (2) Petition for Grant of Letters (RW-02)
- (3) Oath of Subscribing Witness(es) (RW-03)
- (4) Oath of Non-Subscribing Witness(es) (RW-04)
- (5) Oath of Witness(es) to Will Executed by Mark (RW-05)
- (6) Renunciation (RW-06)
- (7) Notice of Estate Administration Pursuant to Pa.O.C. Rule 10.5 (RW-07)
- (8) Certification of Notice Under Pa.O.C. Rule 10.5 (RW-08)
- (9) Inventory (RW-09)
- (10) Pa.O.C. Rule 10.6 Status Report (RW-10)

The following form may be used where applicable:

- (1) Affidavit for Filing in Philadelphia County by Foreign Fiduciary.

**CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS**

**Rule 14.2A. Petitions Under 20 Pa.C.S. § 5501 et seq.**

(1) *Contents.* Any petition filed under 20 Pa.C.S. § 5501 et seq. shall be in plain language and shall include the following (in addition to those paragraphs unique to the relief requested by the petition):

- (a) The name, residence and post office address of the petitioner and the relationship, if any, of the petitioner to the alleged incapacitated person;
- (b) The name, date of birth, residence, post office address and occupation, if any, of the alleged incapacitated person;
- (c) The names, ages and addresses of the spouse, dependents, parents and presumptive adult heirs of the alleged incapacitated person;
- (d) The names and addresses of the persons or institutions providing residential services to the alleged incapacitated person;
- (e) The names and addresses of all other service providers;
- (f) The names and addresses of the persons or entities whom petitioner asks to be appointed guardian and an averment that all proposed guardians have no interest adverse to the alleged incapacitated person;
- (g) The reasons the guardianship is requested;
- (h) A description of the functional limitations and of the physical and mental condition of the alleged incapacitated person;
- (i) The steps taken to find less restrictive alternatives;
- (j) The specific areas of incapacity over which the guardian is requested to be assigned authority;
- (k) The qualifications of each proposed guardian and the written consent of each proposed guardian to serve;
- (l) Where a guardian of the estate is sought, the gross value of the estate and net income from all sources to the extent known (including but not limited to salary, income or other benefits which the alleged incapacitated person is receiving or entitled to receive);
- (m) A copy of the most recent annual report(s), if any has been filed, certified as true and correct by counsel and the date of filing of said report(s);

(n) A statement as to whether the alleged incapacitated person was a member of the United States Armed Forces and whether he or she is currently receiving veterans' benefits;

(o) A statement as to whether the alleged incapacitated person has executed a power of attorney or an advance directive for health care; and

(p) A statement as to whether any other Court has ever assumed jurisdiction in any proceeding to determine the capacity of the alleged incapacitated person.

(2) *Decrees.* The following decrees shall be attached to the face of a petition for adjudication of incapacity:

(a) A preliminary decree awarding a citation directed to the alleged incapacitated person to show cause why he or she should not be adjudged an incapacitated person and a limited or plenary guardian appointed, and providing for a hearing at a time and place to be supplied by the Court. The preliminary decree shall also restate the requirements set forth in Rule 14.2B(4), (5) and (6).

(b) A final decree adjudicating incapacity, appointing a limited or plenary guardian of the person and/or estate, directing the filing of annual reports and fixing security, if any.

(3) *Filing of Petitions.* All petitions under 20 Pa.C.S. § 5501 et seq. shall be electronically filed with the Clerk in the county in which the alleged incapacitated person resides, or is domiciled, or in which previous matters under this Chapter have been filed by the proposed guardian, the Court-appointed guardian or any interested party.

(4) *Alleged Incapacitated Persons: Resident/Non-resident.*

(a) The Court may determine the incapacity of persons domiciled or residing in the Commonwealth, and appoint guardians of the person and/or estate of the incapacitated person.

(b) The Court may determine the incapacity of persons not domiciled in the Commonwealth, having property in the Commonwealth, and appoint a guardian of the estate of the incapacitated person. The Court shall give preference in its appointment to the foreign guardian of the nonresident incapacitated person, unless such appointment would not be in the best interests of the incapacitated person.

**Probate Section Comment:** 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence.

**Rule 14.2B. Practice and Procedure. In General.**

(1) *Assignment of Petitions.* Petitions for the appointment of guardians of alleged incapacitated persons will be assigned to the Judges of the Court in rotation.

(2) *Consent of Proposed Guardian.* The written consent of the proposed guardian to act as guardian, containing the following information shall be attached to the petition:

- (a) his or her business and domicile, and
- (b) that he or she is a citizen of the United States, able to speak, read and write the English language.

(3) *Hearing Judge.* The Judge to whom a petition is assigned will be designated "Hearing Judge." Generally, all matters pertaining to the administration of the incapacitated person's estate will be referred to the Hearing Judge.

(4) *Service on Alleged Incapacitated Person and Notice to Interested Parties.*

(a) Personal service on the alleged incapacitated person shall be made by petitioner, or petitioner's representative, no less than twenty (20) days before the hearing. At the time of service, the petition and citation shall be explained to the maximum extent possible in language the alleged incapacitated person will be most likely to understand and the petition and the citation shall be left with him or her. The form of notice and citation provided to the alleged incapacitated person shall be found in the Appendix of Orphans' Court and Register of Wills Forms Adopted by the Supreme Court.

(b) At least twenty (20) days before the hearing, notice consisting of copies of the petition and citation shall be sent by petitioner by certified mail to all persons who are sui juris and entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time. Notice shall also be provided to such persons or institutions providing residential services to the alleged incapacitated person and to such other parties as the Court may direct, including other service providers. If there are no known intestate heirs, notice shall be given to the Attorney General at the Eastern Regional Office in Philadelphia.

(c) The petitioner must notify the Court at least seven (7) days prior to the hearing if counsel has not been retained by or on behalf of the alleged incapacitated person.

(5) *Proof of Service and of Notice.*

(a) The following shall be submitted at a hearing for determination of incapacity:

(i) An affidavit of service of the petition and citation on the alleged incapacitated person, attached to or endorsed upon the original citation, reciting that the petition and citation were explained to the maximum extent possible in language likely to be understood by the alleged incapacitated person and that a copy of each was left with him or her; and

(ii) An affidavit reciting the manner of giving notice of the hearing and identifying those persons to whom such notice was given as required in Rule 14.2B(4).

(b) For all other petitions, a certification by counsel listing the persons notified and stating the date and manner of service, together with a copy of the notice given, shall be attached to petition as a separate exhibit.

(6) *Attendance at Hearing.*

(a) The petitioner and the alleged incapacitated person shall be present at the hearing unless:

(i) the Court is satisfied, upon the deposition or testimony of or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his or her presence; or

(ii) it is impossible for the alleged incapacitated person to be present because of his or her absence from the Commonwealth, in which case it shall not be necessary for the alleged incapacitated person to be represented by a guardian ad litem.

(b) The Court may hold a closed hearing or a hearing without a jury, subject to the right of the alleged incapacitated person or his or her counsel to demand an open hearing, or a hearing with a jury. The hearing may be held at such location as the Court shall direct, including the alleged incapacitated person's residence.

(7) *Emergency Proceedings.*

(a) *Appointment:* The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person, when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5501 et seq., including § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

(b) *Applicability of Other Provisions:* The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

(c) *Duration of Emergency Guardianship:*

(i) *Person:* An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, then, upon application to the Hearing Judge, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order. After the expiration of the emergency order or any extension, a full guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511.

(ii) *Estate:* An emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days. After thirty (30) days, a full guardianship proceeding must be initiated pursuant to 20 Pa.C.S. § 5511.

(8) *Evidence of Incapacity.*

(a) *Testimony:* The petitioner must present testimony, whether in person or by deposition, from individuals qualified by training and experience in evaluating incapacities of the type alleged by petitioner, which establishes the nature and extent of the alleged incapacities and disabilities and the person's mental, emotional and physical condition, adaptive behavior and social skills.

(b) *Independent Evaluation:* If, pursuant to 20 Pa.C.S. § 5511(d), the Hearing Judge upon his or her own motion or on petition by the alleged incapacitated person for cause shown, shall order an independent evaluation to meet the requirements of 20 Pa.C.S. § 5518:

(1) the evaluator shall electronically file a report of findings with the Hearing Judge before the hearing and shall send a copy thereof to each counsel of record and to such other interested parties or persons as the Court may direct; and

(2) the Hearing Judge shall determine the charges for the independent evaluation and the persons responsible for the payment and shall give due consideration to any evaluator nominated by the alleged incapacitated person.

(9) *Filing of an Inventory.* Within three months of the adjudication of incapacity, every guardian of the estate of an incapacitated person shall electronically file an inventory with the Clerk in accordance with the provisions of

20 Pa.C.S. § 5521(b) using the form contained in the Appendix of Orphans' Court and Register of Wills Forms Adopted by the Supreme Court.

(10) *Filing of Annual Reports.* Within twelve (12) months of a guardian's appointment, and annually thereafter, the guardian of an incapacitated person shall electronically file a report in accordance with 20 Pa.C.S. § 5521(c)(1) with the Clerk.

(11) *Testamentary Writings.* A copy of all testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, certified to be true and correct, shall be submitted by the guardian or such other person to the Hearing Judge for inspection within thirty (30) days of such guardian's appointment, or when such testamentary writing(s) is subsequently discovered.

(12) *Certificates of Appointment.* The Clerk, in addition to issuing certified copies of the decree appointing a guardian, will issue a Guardian's Certificate in accordance with the decree when the security, if any, ordered by the Court has been entered.

**Probate Section Comment:** Notwithstanding paragraph (4), a shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. Although paragraph (8)(a) permits testimony by deposition, such evidence may not necessarily be considered adequate to establish incapacity. In relying on such evidence, counsel takes the risk that the petition will be denied or that the hearing will be continued so that a witness may be produced to give live testimony.

**Note:** Pursuant to the Pennsylvania Mental Health Procedures Act, § 109, the Court is required within seven days of finding an individual incapacitated to file a Notification of Mental Health Commitment form with the Pennsylvania State Police.

**Rule 14.2C. Practice and Procedure. Small Estate of Incapacitated Persons.**

If at a hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation, the Court may award the entire estate to the person or institution maintaining the incapacitated person, or make such order as may be appropriate under the circumstances. In such case, a decree in approved form, in lieu of the final decree appointing a guardian, shall be attached to the face of the petition.

**Probate Section Comment:** 20 Pa.C.S. § 5101 and § 5505 prescribe the statutory limitation for small estates.

**Rule 14.2D. Practice and Procedure. Special Petitions.**

(1) *Allowances.*

(a) *In General:* Expenditures for the maintenance or support of an incapacitated person or for dependent of the incapacitated person, or for payment of counsel fees, shall be governed by the appropriate provisions of Rule 5.6C(1) and (3); but, otherwise, as hereinafter provided.

(b) *Filing of Petition and Decrees:* A petition for allowance from the incapacitated person's estate, during inca-



capacity, shall be electronically filed with the Clerk by the guardian or any interested party. A final decree shall be attached to the face of the petition. When the petitioner is not a guardian, a preliminary decree containing a provision for the time and place for hearing to be fixed by the Court shall also be attached to the face of the petition. Notice shall be given to the guardian and to such other parties as the Court may direct.

(c) *Additional Contents of Petition:* In addition to the provisions set forth in Rule 14.2A(1), (a) through (e) and (m), the petition shall also set forth:

(i) the name of the guardian, the date of his or her or appointment, the nature of the guardianship of the estate or person (limited or plenary) and the name of the Hearing Judge;

(ii) If the petitioner is not a guardian, his or her relationship to the incapacitated person, and, if not related, the nature of his or her interest;

(iii) A statement of all previous distributions allowed by the Court since the date of the last Court approved accounting, if any;

(iv) An itemized statement of all claims of the incapacitated person's creditors known to petitioner;

(v) A statement of the requested distribution and the reasons therefor; and

(vi) A prayer for the distribution requested. If the allowance requested will involve a matter which will require annual petitions for substantially similar relief, the petitioner may request the Court to make the grant of the allowance applicable to more than one (1) year, but not to exceed three (3) years, unless otherwise permitted by the Court.

(d) *Restrictions Governing Allowance:*

(i) Except in cases of extreme emergency, requests for allowances will not be approved prior to the filing of the inventory or the last required annual report, as the case may be;

(ii) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, or any agency of the Commonwealth, notice of the request for allowance shall be given to such agency.

(2) *Sales.*

(a) *Real Property:* A petition to convey an interest in real property shall comply with the appropriate provisions of the rules governing sale under Rule 5.10A, as far as practicable.

(b) *Personal Property:* The Court shall be asked to approve sales of personal property only when the circumstances are unusual or where the nature of the property is such that the incapacitated person may wish to receive it in kind if he or she regains his or her capacity.

(3) *Reserve for Funeral.* In accordance with 20 Pa.C.S. § 5537, the Court may authorize a funeral reserve.

(4) *Estate plan.* In accordance with section 20 Pa.C.S. § 5536(b), the Court may substitute its judgment for that of the incapacitated person with respect to the incapacitated person's estate planning and other affairs.

(5) *Other Petitions.* The provisions of Rule 14.2D. do not preclude the filing of other petitions for special relief. All other petitions shall be electronically filed with the Clerk by the guardian or any interested party.

**Probate Section Comment:** Section 5521 of the Pennsylvania Probate, Estates and Fiduciaries Code (20 Pa.C.S. § 5521) gives the guardian authority to sell personal property without Court approval. Therefore, for instance, such approval should not be sought for the routine sale of publicly traded securities; however, Court approval may be sought for sales of other types of personal property, such as the alleged incapacitated person's personal effects, household furnishings or closely held stocks.

**Rule 14.2E. Practice and Procedure. Modification of Existing Orders and Adjudication of Capacity.**

(1) *Petition to Modify An Existing Order.* A petition to modify an existing order shall include a request for the appropriate modification of the existing order in accordance with the evidence as presented of the incapacitated person's capacity or other change in circumstance.

(2) *Petition for Adjudication of Capacity.* A petition for adjudication of capacity shall include a request that the incapacitated person be declared no longer incapacitated, that the guardian be directed to file a final report and that such other action as the circumstances may require be approved.

**APPENDIX**

**PHILADELPHIA COUNTY ORPHANS' COURT FORMS**

Orphans' Court Division Cover Sheet  
 Account Filing Checklist—Decedent's Estate  
 Account Filing Checklist—Trust (Testamentary/Inter Vivos)  
 Account Filing Checklist—Agent under Power of Attorney  
 Account Filing Checklist—Guardian of Minor  
 Account Filing Checklist—Guardian of Incapacitated Person  
 Account Filing Checklist—Special Needs Trust  
 Affidavit for Filing in Philadelphia County by Foreign Fiduciary  
 Appeal from Register of Wills  
 Excerpt form Schedule of Distribution  
 Subpoena

Court of Common Pleas of Philadelphia County  
Orphans' Court Division  
**Cover Sheet**

<b>FOR COURT USE ONLY</b>			
ASSIGNED TO JUDGE			
CONTROL NO.			
<i>Responding parties must include this number on all filings.</i>			
NAME OF ESTATE			ORPHANS' COURT NUMBER
TYPE OF ESTATE			
<input type="checkbox"/> Decedent's Estate <input type="checkbox"/> Trust Inter Vivos <input type="checkbox"/> Testamentary Trust <input type="checkbox"/> Incapacitated Person <input type="checkbox"/> Minor <input type="checkbox"/> Principal ( <i>power of attorney</i> ) <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Special Needs Trust <u>Other (specify) _____</u>			
FILING PARTY'S RELATIONSHIP TO ESTATE			
PLEADING OR DOCUMENT FILED			
NAME OF FILING PARTY (NOT COUNSEL FOR THE PARTY)		ADDRESS	
<b>ATTORNEYS MUST CHECK ONE BOX</b> TO THE CLERK OF ORPHANS' COURT: <input type="checkbox"/> Kindly enter my appearance on behalf of _____ <input type="checkbox"/> I have entered my appearance on behalf of _____			
NAME OF FILING ATTORNEY OR PARTY		ADDRESS	
PHONE NUMBER	FAX NUMBER		
SUPREME COURT IDENTIFICATION NO.		E-MAIL ADDRESS	
SIGNATURE OF FILING ATTORNEY OR PARTY		DATE	
OTHER PARTIES ( <i>Name, address, and telephone number of unrepresented parties or all counsel already of record. If needed, use separate sheet.</i> )			
Is notice required? <input type="checkbox"/> No <input type="checkbox"/> Yes. Copy of notice attached to pleading. Date of Notice: _____ <input type="checkbox"/> Yes. All joinders are attached.	If Citation is requested: 1. Was Citation against Respondent previously issued? <input type="checkbox"/> Yes <input type="checkbox"/> No 2. If yes, date of service: _____	Has another petition been decided in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No Is another petition pending? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the Judge: _____	
<b>FOR COURT USE ONLY - FIRST FILINGS ONLY (If Applicable)</b>			
DATE OF BIRTH	DATE OF DEATH	REGISTER OF WILLS NUMBER	DATE OF DEED OF TRUST
<i>The Filing Party shall complete the information at the bottom of the Cover Sheet filed with the Clerk, and not the service copies. The information will only be used by the Clerk. The Clerk shall not release this information to the general public.</i>			

COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>DECEDENT'S ESTATE</u>		
ESTATE OF _____, DECEASED	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<p><b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.</p>		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) If Will, Typed Copy of Will & Codicils	
	7) If Will, Copy of Will & Codicils Certified Correct [Phila. O.C. Rule 2.4B(2)(b)]	
	8) Copy of Letters Testamentary or Letters of Administration [Phila. O.C. Rule 2.4 B(2)(a)]	
	9) Proof of Advertisement of Letters [Phila. O.C. Rule 2.4 B(2)(a)]	
	10) Typed Copy of Inventory	
	11) Copy of Inventory Certified Correct [Phila. O.C. Rule 2.4 B(2)(b)]	
	12) <b>Statement of Method of Notice and Copy of Notice</b> [Pa.O.C.Rule 2.5]	
	13) Notice of Charitable Gift to Attorney General [Pa.O.C.Rule 4.4(a)(13)]	
	14) Petition to Appoint/Rrequest to Waive Guardian/Trustee Ad Litem	
	15) Inheritance Tax Receipts [Phila. O.C. Rule 2.4B(1)(f)]	
	16) Agreement of Compromise and Settlement [Phila O.C. Rule 2.4B(1)(e)]	
	17) Agreement Regarding Accountant's Compensation [Phila O.C. Rule 2.4B(1)(d)]	
	18) Certificate of Appointment of Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(a)]	
	19) Affidavit by Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(b)]	
	20) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____



COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>TRUST</u> (TESTAMENTARY/INTER VIVOS)		
ESTATE OF _____, DECEASED/SETTLOR	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<p><b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.</p>		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) Typed Copy of Trust Instrument	
	7) Copy of Trust Instrument, Certified Correct [Phila. O.C. Rule 2.4B(3)]	
	8) Copy of Original Trust Instrument/Original Letters Testamentary, Certified Correct [Phila. O.C. Rule 2.4B(3)]	
	9) <b>Statement of Method of Notice and Copy of Notice</b> [Pa. O.C. Rule 2.5]	
	10) Notice of Charitable Gift to Attorney General [Pa. O.C. Rule 4.4(a)(13)]	
	11) Petition to Appoint/Request to Waive Guardian/Trustee Ad Litem	
	12) Inheritance Tax Receipts [Phila. O.C. Rule 2.4B(1)(f)]	
	13) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	14) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	15) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	16) Affidavit of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	17) Income Accounting Waivers [Phila. O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____

10-132B (7-20-16)

COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>AGENT UNDER POWER OF ATTORNEY</u>		
ESTATE OF _____ <small>POA</small>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Power of Attorney or Other Instrument Appointing Agent, Certified Correct [Phila. O.C. Rule 2.4B(7)]	
	7) <b>Statement of Method of Notice and Copy of Notice</b> [Pa. O.C. Rule 2.5]	
	8) If Deceased, Statement of Appointment of Personal Representative	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> <b>ACCEPTED</b> <input type="checkbox"/> <b>REJECTED</b>	REVIEWED BY _____	DATE _____

COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>GUARDIAN OF MINOR</u>		
ESTATE OF _____, MINOR	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<p><b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.</p>		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Decree or Instrument Appointing Guardian [Phila. O.C. Rule 2.4B(5)(a)]	
	7) <b>Statement of Method of Notice and Copy of Notice</b> [Pa. O.C. Rule 2.5]	
	8) Statement of Former Minor [Phila. O.C. Rule 2.4B(5)(c)]	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____

10-132 (7-20-16)



COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • <u>GUARDIAN OF INCAPACITATED PERSON</u>		
ESTATE OF _____, INCAP.	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in <b>BOLD</b> . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) <b>Copy of Decree or Instrument Appointing Guardian</b> [Phila. O.C. Rule 2.4B(6)(a)]	
	7) <b>If Deceased, Statement of Appointment of Personal Representative</b> [Phila. O.C. Rule 2.4B(6)(b)]	
	8) <b>Statement of Method of Notice and Copy of Notice</b> [Pa. O.C. Rule 2.5]	
	9) <b>Agreement of Compromise and Settlement</b> [Phila. O.C. Rule 2.4B(1)(e)]	
	10) <b>Agreement Regarding Accountant's Compensation</b> [Phila. O.C. Rule 2.4B(1)(d)]	
	11) <b>Certificate of Appointment of Foreign Fiduciary</b> [Phila. O.C. Rule 2.4B(8)(a)]	
	12) <b>Affidavit by Foreign Fiduciary</b> [Phila. O.C. Rule 2.4B(8)(b)]	
	13) <b>Income Accounting Waivers</b> [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____

10-132D (7-20-16)

<b>COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION</b> <b>ACCOUNT FILING CHECKLIST • SPECIAL NEEDS TRUST</b>		
ESTATE OF _____, DECEASED/SETTLOR	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column ( <b>YES or N/A</b> ) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in <b>BOLD</b> . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) Typed Copy of Trust Instrument	
	7) Copy of Trust Instrument, Certified Correct [Phila. O.C. Rule 2.4B(4)(a)]	
	8) Statement of Method and Date of Notice to Dept. of Human Services, Special Needs Trust Depository and Social Security Administration [Phila. O.C. Rule 2.4B(4)(e)]	
	9) <b>Statement of Method of Notice and Copy of Notice</b> [Pa.O.C.Rule 2.5]	
	10) Notice of Charitable Gift to Attorney General [Pa.O.C.Rule 4.4(a)(13)]	
	11) Petition to Appoint/Request to Waive Guardian/Trustee Ad Litem	
	12) Letter of No Objection from Counsel for Dept. of Human Services [Phila. O.C. Rule 2.4B(4)(b)]	
	13) Agreement of Compromise and Settlement [Phila O.C. Rule 2.4B(1)(c)]	
	14) Agreement Regarding Accountant's Compensation [Phila O.C. Rule 2.4B(1)(d)]	
	15) Certificate of Appointment of Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(a)]	
	16) Affidavit of Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(b)]	
	17) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> <b>ACCEPTED</b> <input type="checkbox"/> <b>REJECTED</b>	REVIEWED BY _____	DATE _____

AFFIDAVIT FOR FILING IN PHILADELPHIA COUNTY BY FOREIGN FIDUCIARY

Commonwealth of Pennsylvania }
} ss.
County of \_\_\_\_\_ }

being duly {sworn } depose and say as follows:
{affirmed}

I am {Executor } in the Estate of \_\_\_\_\_
{Administrator }
We are {Administrator c.t.a. }
{Trustee }
{Guardian }

who was adjudicated incompetent

who died \_\_\_\_\_ a resident of \_\_\_\_\_
(Date) (City)
(County) (State)

That deponent desires to exercise within the Commonwealth of Pennsylvania the authority vested in deponent by virtue of an Act of Assembly of the Commonwealth of Pennsylvania, known as the Probate, Estate and Fiduciaries Code of 1972, P.L. 164, Sec. 4101 (1) and (2), and has complied with all the provisions of same.

That after diligent search and inquiry, deponent states that so far as deponent has been able to discover, the above ward / decedent is not indebted to any person in the Commonwealth of Pennsylvania; and that deponent will not exercise any power which \_\_\_\_\_ would not be permitted to exercise in the jurisdiction of \_\_\_\_\_ appointment.

Sworn }
} and subscribed to before }
Affirmed } (Signature)

me this \_\_\_\_\_ day of \_\_\_\_\_ }
} (Address)

A.D. 20\_\_\_\_\_. }
} (Signature)

(Signature and seal of Notary or other official }
}
qualified to administer oaths } (Address)

Show date of expiration of Notary's commission) (If corporation affix corporation seal)

DO NOT FILE THIS AFFIDAVIT UNTIL AFTER ONE MONTH FROM DECEDENT'S DEATH. AN EXEMPLIFIED COPY OF PROBATE PROCEEDINGS MUST ACCOMPANY THIS FORM.

APPENDIX A: Form 10 - Foreign Fiduciary Affidavit



COMMONWEALTH OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

ORPHANS' COURT DIVISION

APPEAL FROM REGISTER OF WILLS

Will No. \_\_\_\_\_ of \_\_\_\_\_  
Adm. No. \_\_\_\_\_ of \_\_\_\_\_  
Misc. No. \_\_\_\_\_ of \_\_\_\_\_

ESTATE OF: \_\_\_\_\_, \_\_\_\_\_

O.C. NO. \_\_\_\_\_ OF \_\_\_\_\_

TO THE REGISTER OF WILLS OF PHILADELPHIA COUNTY:

The undersigned, a party in interest, appeals to the ORPHANS' COURT of said County from the decision of the REGISTER OF WILLS in the Estate:

Check one

- Admitting to Probate a certain writing, dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ as the last will of said decedent, and granting letters testamentary thereon.
- Granting letters of administration to \_\_\_\_\_.
- With respect to the Inheritance Tax Assessment.

\_\_\_\_\_  
**Appellant's Signature**

\_\_\_\_\_  
Print Appellant's Name, Address & E-Mail Address

\_\_\_\_\_  
\_\_\_\_\_

Attorney: \_\_\_\_\_ I.D. No. \_\_\_\_\_

Address: \_\_\_\_\_ Phone No. \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Date Filed: \_\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

ORPHANS' COURT DIVISION

EXCERPT FROM SCHEDULE OF DISTRIBUTION

Estate of \_\_\_\_\_ No. \_\_\_\_\_ of 20 \_\_\_\_\_, Deceased.

Schedule of Distribution approved \_\_\_\_\_, 20 \_\_\_\_\_

Award of Real Estate under Adjudication of \_\_\_\_\_, J.,

dated \_\_\_\_\_, 20 \_\_\_\_\_, sur the \_\_\_\_\_ account

of

Executor-Administrator-Trustee

To

his, her, their, its, heirs, administrators, successors and assigns.

Premises No. \_\_\_\_\_ Street,

at an award value of \_\_\_\_\_ \$

described as follows:

All that Certain:

Subject To

The Decedent Acquired Title Thereto as Follows:

Commonwealth of Pennsylvania  
Court of Common Pleas of Philadelphia County  
Orphans' Court Division

No. \_\_\_\_\_ of \_\_\_\_\_

Estate of \_\_\_\_\_

**Subpoena**

To: \_\_\_\_\_  
*(Name of Witness)*

\_\_\_\_\_  
*(Address)*

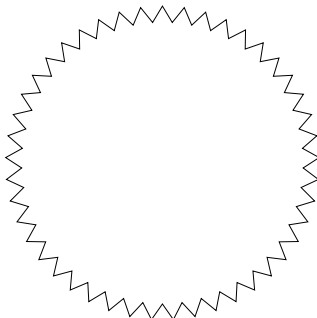
1. You Are Ordered by the Court to come to \_\_\_\_\_, at Philadelphia, Pennsylvania, on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.M., to testify on behalf of \_\_\_\_\_ in the above case, and to remain until excused.

2. And bring with you the following:

\_\_\_\_\_  
\_\_\_\_\_

**NOTICE**

**If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.**



WITNESS my hand and seal of said Court, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2\_\_\_\_\_.

FOR THE COURT:

\_\_\_\_\_  
*Asst. Clerk of Orphans' Court Division*

Inquiries Concerning This Subpoena Should Be Addressed To:

\_\_\_\_\_  
*(Attorney Name and I.D. No.)*

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_



# Return of Service

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
I, \_\_\_\_\_, served with the foregoing subpoena by (de-  
scribe method of service):

---

---

---

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name of Person Served*

\_\_\_\_\_

# Title 252—ALLEGHENY COUNTY RULES

## ALLEGHENY COUNTY

### Rules of the Orphans' Court Division of the Court of Common Pleas

The following Rules of the Orphans' Court Division of the Court of Common Pleas of Allegheny County were adopted June 9, 2016, effective September 1, 2016, as last amended December 6, 2000.

JEFFREY A. MANNING,  
*President Judge*

LAWRENCE J. O'TOOLE,  
*Administrative Judge*

#### Foreword

This substantial revision of the local rules for practice in the Orphans' Court Division is the first since 2000. This version is in response to a substantially revised and more comprehensive set of Supreme Court Orphans' Court Rules, approved by the Supreme Court on December 1, 2015, to be effective September 1, 2016. This revision is the product of a committee of the Allegheny County Bar Association, consisting of John F. Meck, Esquire, Chair, Charles J. Avalli, Esquire, Thomas J. Dempsey, Jr., Esquire, Lisa M. Dougan, Esquire, Aubrey H. Glover, Esquire, Todd T. Jordan, Esquire and Paul W. Stefano, Esquire. The new rules, together with the Supreme Court Orphans' Court Rules are intended to be a comprehensive guide for practice in this division.

Lawrence J. O'Toole, *Administrative Judge*  
Kathleen A. Durkin, *Judge*  
Frank J. Lucchino, *Senior Judge*  
John A. Zottola, *Judge*

### ALLEGHENY COUNTY ORPHANS' COURT DIVISION RULES

**Explanatory Comment:** Explanatory Comments are not part of the Rules, but may be used in construing the Rules. See Explanatory Comment to Pa.O.C. Rule 1.2.

All prior administrative orders and notices are null and void. "Register of Wills" or "Register" is defined in Pa.O.C. Rule 1.3 to mean "the Register of Wills or its equivalent" so as to include the Department of Court Records-Wills/Orphans' Court Division in Allegheny County.

## CHAPTER I. PRELIMINARY RULES ORPHANS' COURT DIVISION RULE 1.1

### Rule 1.1. Short Title and Citation.

These Rules shall be known as the Allegheny County Orphans' Court Rules, shall be referred to individually herein as "Rule," and cited as "Allegheny O.C. Rule \_\_\_\_\_".

**Explanatory Comment:** These Rules shall be read in conjunction with the Pennsylvania Orphans' Court Rules as adopted by the Supreme Court.

## ORPHANS' COURT DIVISION RULE 1.7

### Rule 1.7. Entry and Withdrawal of Counsel; Agreements.

#### Sec. 1. Appearance.

Every attorney presenting any paper to the court or to the clerk shall include on the cover sheet the attorney's name, law firm, office address, and telephone number in Pennsylvania and the attorney's identification number issued by the court Administrator of Pennsylvania. Each such endorsement shall constitute an appearance. An appearance may also be entered by praecipe.

#### Sec. 2. Withdrawal of Attorney Appearance.

Leave to withdraw an appearance where there is no co-counsel who will continue representing the party or where there is not simultaneous entry of appearance by other counsel will not be granted unless, after consideration of all relevant factors, the court determines that the withdrawal will not unduly prejudice any party or unduly delay the litigation.

#### Sec. 3. Agreements.

No agreements between attorneys (and/or pro se litigants) to vary procedure will be considered valid or binding unless made in writing or of record in open court.

**Explanatory Comment:** Common examples of such an agreement are waiving the 10 day notice of presentation required by Section 1(c) of Rule 3.1 or an agreement with respect to discovery.

## ORPHANS' COURT DIVISION RULE 1.8

### Rule 1.8. Forms; Cover Sheet.

Every legal paper filed with the court shall contain a cover sheet in the following form:

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: Estate, Trust, Minor, etc.

ORPHAN'S COURT DIVISION

No.

NAME OF PLEADING

Filed on Behalf of:

Counsel of Record:

Attorney's Name  
PA I.D. No.

Attorney's firm, if any  
Firm I.D.

Address  
Phone number  
Email (optional)

**CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

**ORPHANS' COURT DIVISION RULE 2.1**

**Rule 2.1. Form of Account.**

*Sec. 1. Form.*

Accounts of all fiduciaries presented for confirmation and audit, whether joint or separate, shall be prepared in any form approved by the Supreme Court or in the forms A to E of this Rule and shall be designated by consecutive numbers starting with First and shall be further designated as Interim or Final. An Account which is not in a form consistent with these Rules shall not be confirmed nisi and shall not be scheduled for audit.

Accounts filed after confirmation nisi of an Account shall be designated Supplemental. No Account will be confirmed absolute before the disposition of all previously filed unaudited and unconfirmed Accounts unless the Account includes all matters embraced in such prior Accounts.

*Sec. 2. Copy of Inventory.*

Accounts filed by executors, administrators, and guardians under this Rule shall have attached thereto a copy of the inventory (and any supplemental inventory) certified by counsel to be a true and correct copy of the inventory filed.

*Sec. 3. Request for Distribution.*

There shall be a request for distribution signed by the accountant at the end of the Account requesting that adjudication be determined by the court in accordance with the petition for adjudication.

**ORPHANS' COURT DIVISION RULE 2.4**

**Rule 2.4. Petition for Adjudication; Supplements/ Additions.**

*Sec. 1. Petition.*

The petition for adjudication shall be prima facie evidence of the allegations therein and, unless objected to by an interested party or by the court, or changed or altered by the evidence offered at the audit or subsequently with leave of court, shall be conclusive for the entry of a decree of confirmation and distribution.

*Sec. 2. Supplements.*

Receipts or disbursements received or made after filing the Account and petition for adjudication may be accounted for in a supplemental account, which shall be signed and verified by the accountant and filed with the clerk, with notice in the same manner as required by Pa.O.C. Rule 2.5(a) to (g) with respect to an Account.

**Explanatory Comment:** Prior local practice was to include in or attach to the petition for Adjudication any supplemental accounting of transactions after the period covered by the Account. The petition for Adjudication must now be filed at the same time as the Account, pursuant to Pa.O.C. Rule 2.4(a). Under Section 2 of Rule 2.4, any supplemental accounting will have to be filed separately, at least 20 days in advance of the audit hearing, with notice in the same manner as for the Account.

*Sec. 3. Additional Assets.*

If additional assets are discovered after audit and confirmation absolute of an account, then a signed and verified petition for the distribution of the after-discovered assets may be filed without an inventory or a

formal accounting, provided that it appears in such petition that any inheritance or estate tax due on account thereof has been paid, that there are no known unpaid creditors of the estate and provided that the appropriate notice of presentation has been given. Notice shall be given in the same manner as required by Pa.O.C. Rule 2.5(a) to (g) with respect to an Account.

*Sec. 4. Minor's Estate.*

In addition to the matters required by Sec. 1 above, the petition submitted by a guardian of the estate of a person who is still a minor shall set forth the name, address and relationship of the person who assisted the minor in the examination of the account. For any petition for distribution which is filed because a minor has reached the age of majority, the petitioner shall attach a certified copy of the minor's birth record, or such other evidence of age as the court shall require.

**ORPHANS' COURT DIVISION RULE 2.5**

**Rule 2.5. Notice of Account Filing.**

Notice shall be given to each co-fiduciary who does not join in the statement of the account, and proof thereof shall be attached to the petition for adjudication.

**ORPHANS' COURT DIVISION RULE 2.6**

**Rule 2.6. Filing with the Clerk; Audits.**

*Sec. 1 Filing with the Clerk.*

The following Accounts may be filed before four months have elapsed from the date of the first complete advertisement of the grant of letters:

- (a) An Account of an administrator pendente lite;
- (b) An Account filed pursuant to Sec. 3531 of the PEF Code, dealing with small estates;
- (c) An Account directed to be filed by the court.

*Sec. 2. Attendance at Audits.*

An accountant is not required to attend the audit if the petition for adjudication has been verified by the accountant. Claimants, objectants and all other interested parties, either personally or through their counsel, shall attend audits at the time fixed therefor to address their claims, objections or other positions.

*Sec. 3. Continuance.*

Unless otherwise ordered by the court, if a case on an audit list is continued, it shall be placed upon the next audit list by the clerk.

*Sec. 4. Audit; Confirmation; Distribution; Suspension.*

(a) Accounts confirmed nisi and any supplements thereto offered at the audit will be examined and audited by the court. After audit, the accounts will be confirmed absolutely as stated or as modified and re-stated in accordance with evidence presented at audit or at a subsequent hearing, and balances for distribution decreed to the parties or suspended as circumstances may require.

(b) A decree of distribution may suspend distribution of any part of any fiduciary estate. In order to lift such a suspension, a petition for that purpose must be filed and a copy shall be delivered to the Motions Coordinator at least one day in advance of presentation, setting forth all receipts and disbursements since the entry of that decree. A proposed decree of distribution shall be attached to the petition.



*Sec. 5. Receipts for Distributions.*

Receipts for distribution, if obtained, may be filed with the clerk.

*Sec. 6. Schedules of Distribution.*

Schedules of Distribution shall not be used.

**Explanatory Comment:** Schedules of Distribution are currently utilized in Philadelphia and surrounding counties following the entry of a Decree of Distribution. Two questions on the Petitions of Adjudication (Forms OC-01 to OC-04 of the Pa.O.C. Rules) ask:

Is the court being asked to direct the filing of a Schedule of Distribution?

As to real estate only?

In Allegheny County those questions should be answered no. Allegheny County will still use a Schedule B for awarding real estate per Sec. 2 of Rule 2.9.

**ORPHANS' COURT DIVISION RULE 2.7**

**Rule 2.7. Objections to Accounts.**

In addition to written objections, an oral motion may be made at audit for a continuance to file written objections.

**ORPHANS' COURT DIVISION RULE 2.9**

**Rule 2.9. Confirmation of Accounts; Awards.**

*Sec. 1. Confirmation Nisi; Audit List.*

All accounts filed with the clerk will be confirmed nisi not less than thirty days after the time of filing. An audit list will be made up of all accounts confirmed nisi. The audit list will be called beginning on the second Monday following confirmation nisi, and shall continue thereafter each day until all of the accounts have been audited.

*Sec. 2. Distribution in Kind Under 20 Pa.C.S. Secs. 3534 and 3536.*

(a) In every estate in which real estate remains for distribution, the decree of distribution shall consist of two schedules:

Schedule A—Distribution of personalty.

Schedule B—Distribution of real estate.

Schedule B shall contain a legal description and shall be submitted to the court at the audit of the account.

(b) If the heirs, devisees, or legatees elect in writing to take real estate not specifically devised, then it shall be allotted and decreed to them in accordance with their written election or agreement.

(c) If the heirs, devisees, or legatees do not elect in writing to take unconverted real estate in kind, or if they are unable to agree as to the division thereof, any interested party, including the personal representative of the estate, by petition presented at or prior to the audit of the account, may request the court to divide, partition, and allot the real estate. When so requested by petition to divide, partition, and allot unconverted real estate, the court shall fix a procedure for the disposition of such petition.

**ORPHANS' COURT DIVISION RULE 2.12**

**Rule 2.12. Small Estates Petitions.**

Any petition for settlement of a small estate as authorized by 20 Pa.C.S. § 3102 shall set forth the following:

*Sec. 1. Personalty Only.*

When the estate of the decedent consists of personalty only, the petition shall set forth the following:

(a) The name, date of death and domicile of the decedent; whether the decedent died testate or intestate; if testate, whether the will was probated; whether letters have been granted, and if so, on what date and to whom;

(b) The items of personal property owned by decedent and their values at the date of death;

(c) The names of all beneficiaries under the will, if any, as well as the names of decedent's next of kin if not named as beneficiaries under the will;

(d) The names of the surviving spouse and next of kin if decedent died intestate as to any personalty;

(e) The names of any persons entitled to distribution who are not sui juris, with the names of their trustees or guardians and a reference to their appointment;

(f) When a family exemption is claimed:

(1) by whom the exemption is claimed;

(2) the name of the surviving spouse, if any, whether the family relationship was maintained, and whether the spouse has forfeited his or her rights;

(3) if children of the decedent are claiming the exemption, then the names of all children and whether such children were members of the same household as the decedent at death, indicating any who are not sui juris, or if there are no such children, the names of the parent or parents of the decedent who were members of the same household as decedent at death;

(4) a description of the property claimed and the gross value thereof;

(5) whether there is any objection to the claim, and if so, by whom;

(g) An itemized list of unpaid administrative expenses, preferred debts, and taxes, including those due to the Commonwealth;

(h) An itemized list of all claims and whether or not admitted;

(i) The names of all next of kin and legatees under the will, if any, not joining in the petition.

Exhibits shall be attached in the following order:

(1) A copy of the will, if any;

(2) The joinder of all next of kin, legatees, creditors, sureties on any administrator's bond, and any interested party in the decedent's estate, who consent to the granting of the petition;

(3) A receipt or statement from the agent of the Commonwealth showing that the Pennsylvania inheritance tax has been paid in full, or such agent's consent to the granting of the petition; and

(4) An itemized list of all disbursements made prior to filing the petition, specifying the date, amount, payee and purpose of each disbursement.

*Sec. 2. Realty.*

When the estate of the decedent consists of personalty and realty or realty only, then in addition to the information required by Section 1 of this Rule, the petition shall set forth the following:

(a) The date of the first complete advertisement of the letters, and the amount of bond, if any; and

(b) The names of all devisees under the will, if any.

In addition to the exhibits required by Section 1 of this Rule, the petitioner shall attach proof of advertising as an exhibit to the petition.

### CHAPTER III. PETITION PRACTICE AND PLEADING

#### ORPHANS' COURT DIVISION RULE 3.1

##### Rule 3.1. Petitions Generally; Parties in Military Service.

###### Sec. 1. *Petitions; Motions.*

(a) All petitions and motions must first be filed with the clerk. Motions (and consent petitions under Section 1(e)) must then be presented at 9:30 a.m. or at such other time as may be fixed by Order of court.

(b) Ten (10) days' notice of presentation of any motion is required absent an emergency or consent by the opposing party to a shorter notice of presentation.

(c) All motions shall include a notice of presentation and certificate of service.

(d) If the sole relief requested by a petition is the issuance of a citation or rule, a notice to plead pursuant to Pa.O.C. Rule 3.5(b)(1) is not required.

(e) Where a party can satisfy Pa.O.C. Rule 3.5(c) (Consents/Statements of No Objection; Joinders), then neither a citation nor rule is required. In such a case, the petition shall be presented in the same manner as a motion, and compliance with Sections 1(b) and (c) of this Rule is not required.

(f) A copy of all motions (and consent petitions under Section 1(e)) shall be delivered to the Motions Coordinator at least one business day in advance of presentation.

(g) Where a judge has been actively involved in the matter which is the subject of a motion or a consent petition under Section 1(e) of this Rule, counsel shall present the motion or consent petition to such judge.

###### Sec. 2. *Costs.*

Except for cause shown, no order shall be docketed until all filing costs have been paid.

**Explanatory Comment:** Section 2 reflects current practice. The Rule has been clarified to provide that no order shall be docketed until all filing costs have been paid. No citation, rule or certificate can be issued until the predicate order has been docketed.

###### Sec. 3 *Parties in Military Service.*

When any interested party in any proceeding in this court is in the military service of the United States, the procedure shall conform to the provisions of the Servicemembers Civil Relief Act, as amended, 50 U.S.C.A. 3901 et seq.

#### ORPHANS' COURT DIVISION RULE 3.5

##### Rule 3.5. Mode of Proceeding on Petition; Return Date; Preliminary Orders.

###### Sec. 1. *Petition for Citation.*

(a) A petition requesting the issuance of a citation to a party who is not yet subject to the personal jurisdiction of the court shall be prepared in the manner prescribed by Pa.O.C. Rules 3.3 and 3.4 and filed in the manner set forth in Rule 3.1.

**Explanatory Comment:** The court may sua sponte correct a request for issuance of a citation and order the issuance of a rule if the court already has personal jurisdiction over a respondent.

(b) The preliminary order directing the issuance of a citation shall be in the form set forth in Sec. 4(a) of this Rule.

(c) Upon entry of a preliminary order directing the issuance of a citation, the following procedure shall be followed:

(i) The clerk shall prepare a citation.

(ii) The petitioner is required to pick up the citation from the clerk.

(iii) The petitioner shall serve the petition and citation in a manner consistent with Pa.O.C. Rule 3.5(a)(2) and Pa.O.C. Rule 4.2.

(iv) If a response is not filed on or before the return date set forth in the citation, all averments of fact in the petition shall be deemed admitted and the court may enter an order granting the relief requested by the petition.

(v) If an answer is timely filed and there are no disputed issues of material facts, the court may decide the petition based on the petition and answer.

###### Sec. 2. *Petition for Rule.*

(a) A petition requesting the issuance of a rule to a party who is already subject to the personal jurisdiction of the court shall be prepared in the form prescribed by Pa.O.C. Rules 3.3 and 3.4 and filed in the manner set forth in Rule 3.1.

**Explanatory Comment:** The court may direct the issuance of a rule if the court believes that a notice petition under Pa.O.C. Rule 3.5(b) is not appropriate.

(b) The preliminary order directing the issuance of a rule shall be in the form set forth in Sec. 4(b) of this Rule.

(c) Upon entry of a preliminary order directing the issuance of a rule, the following procedure shall be followed:

(i) The clerk shall prepare a rule.

(ii) The petitioner is required to pick up the rule from the clerk.

(iii) The petitioner shall serve the petition and rule in a manner consistent with Pa.O.C. Rule 4.3

(iv) If a response is not filed on or before the return date set forth in the rule, all averments of fact in the petition shall be deemed admitted and the court may enter an order granting the relief requested by the petition.

(v) If an answer is timely filed and there are no disputed issues of material facts, the court may decide the petition based on the petition and answer.

###### Sec. 3. *Return Date.*

(a) The return date for a citation under Rule 3.5, Sec. 1 or a rule under Rule 3.5, Sec. 2 shall be the date set by the court in the preliminary order. Any response due on the return date shall be considered timely filed if it is filed with the clerk on or before the close of business on the return date or on or before any applicable electronic filing deadline for that date.

###### Sec. 4. *Form of Orders Issuing Citation and Rule.*

(a) *Preliminary Order directing the issuance of a Citation*

PRELIMINARY ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the foregoing Petition, it is hereby ORDERED that a Citation shall be issued to respondent(s), \_\_\_\_\_, to show cause why the Petitioner is not entitled to the following relief [specify the relief requested in the Petition]: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Respondent(s) shall file a response to the Petition on or before \_\_\_\_\_, 20\_\_\_\_.

A conference shall be held on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_m. prevailing time in courtroom \_\_\_\_\_, 437 Grant Street, 17th Floor, Pittsburgh, Pennsylvania.

The issue(s) raised by the Petition and any response thereto may be disposed of by the court at the conference or the court may set a schedule for such further proceedings as may be necessary.

(b) Preliminary Order directing the issuance of a Rule

PRELIMINARY ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the foregoing Petition, it is hereby ORDERED that a Rule shall be issued to respondent(s) \_\_\_\_\_ to show cause why the Petitioner is not entitled to the following relief [specify the relief requested in the Petition]: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Respondent(s) shall file a response to the Petition on or before \_\_\_\_\_, 20\_\_\_\_.

A conference shall be held on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_m. prevailing time in courtroom \_\_\_\_\_, 437 Grant Street, 17th Floor, Pittsburgh, Pennsylvania.

The issue(s) raised by the Petition any response thereto may be disposed of by the court at the conference or the court may set a schedule for such further proceedings as may be necessary.

CHAPTER V. GOVERNING SPECIFIC TYPES OF PETITIONS

ORPHANS' COURT DIVISION RULE 5.8

Rule 5.8. Discharge of Fiduciary and Surety; Resignation.

When a fiduciary has not completed the administration of the estate, the fiduciary's petition for leave to resign and be discharged shall set forth:

- (a) The nature of the fiduciary capacity;
- (b) The date and a reference to the record of the fiduciary's appointment and the names of the fiduciary's sureties, if any;
- (c) The kind and value of property remaining in the estate;
- (d) Whether an Account has been or will be filed; and
- (e) The reason for the fiduciary's resignation.

The prayer shall be (i) for the acceptance of the resignation and an order directing payment and transfer of the remainder of the property in the fiduciary's hands to the fiduciary's successor; and (ii) for the discharge of the fiduciary and the fiduciary's sureties, if any, upon confirmation of the fiduciary's account.

The court, with or without notice to the parties and with or without a hearing, may accept the fiduciary's resignation and direct the fiduciary to make payment and transfer of the assets of the estate to the fiduciary's successor and may require the fiduciary to state and file an account.

The proposed successor fiduciary and the representatives of persons not sui juris, if appointed, and any other interested party, may examine the assets of the estate and any Account filed, and, when necessary, file objections. Upon consideration thereof and after audit and confirmation of the account, if filed, and proof that all taxes assessed have been paid or that provision has been made for their payment, the court will decree a discharge of the accounting fiduciary and the fiduciary's sureties, if any, upon payment and transfer of the assets remaining in the hands of the fiduciary to the fiduciary's successor or as otherwise directed by the court.

ORPHANS' COURT DIVISION RULE 5.10

Rule 5.10. Public Sale of Real Property.

In addition to the requirements of Pa.O.C. Rule 5.10, any petition for the public sale of real property shall set forth the following:

Sec. 1. Real Property.

(a) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; the name and date of appointment of the personal representative; and the amount of bond given by the personal representative, if any;

(b) a description adequate to describe the real property involved, with the improvements thereon, how acquired by the decedent or trust, its rental income or value, its value shown by the inventory, and, if the Pennsylvania transfer inheritance tax appraisalment has been filed, its value as shown therein;

(c) the names of all interested parties as heirs, devisees, legatees, or lienholders who will be affected by the granting of the petition, the interest of each, an indication of whether any of such are not sui juris, together with the names of their fiduciaries, if any;

(d) the names of the interested parties consenting to the transaction;

(e) the reasons why the sale or other requested disposition of the real property is desirable for the proper administration and distribution of the estate or trust; and

(f) the mortgages, if any, to be discharged by sale with the consent of the mortgagees if they are not to be paid in full.

Sec. 2. Exhibits.

Exhibits to such petitions shall be attached in the following order:

- (a) a copy of the will, if any, or the trust;



(b) a printout showing the current assessed value of the real property;

(c) the joinder of parties who consent to the transaction; and

(d) a copy of the inventory;

**Sec. 3. Notice.**

If the property is located in Allegheny County, then public notice of a proposed public sale shall be given by advertisement once a week for three successive weeks in the daily editions of the *Pittsburgh Legal Journal* and in one newspaper of general circulation published in Allegheny County. If the property is not located in Allegheny County, then such public notice shall be given in the legal periodical, if any, of that county and in one newspaper of general circulation published in such county. In either case, public notice shall include the posting of at least five notices of the proposed sale, exchange or option on and in the immediate vicinity of the premises to be sold.

**Sec. 4. Bid Process.**

On or before the return day of a public sale, the proofs of publication and of posting of notice shall be filed. On such return day, the court will then open the sales to competitive sealed bidding or may permit competitive oral bidding in an open court or the court may refer the matter to the clerk and fix the time and place during the same day when the clerk will offer the property at auction and make immediate return thereto to the court. The successful bidder shall forthwith deposit cash or its equivalent with the personal representative in a sum not less than ten percent of the amount of the bid; the balance shall be paid as directed by the court.

**Sec. 5. Additional Security.**

On or after the return day of a sale or other transaction hereunder, the court shall fix the amount of the security or additional security which the personal representative shall be required to enter. If, however, the facts warrant and a stipulation is entered by the surety on any existing security accepting liability for the proceeds of the sale or other transaction, the court may excuse the personal representative from entering security or additional security. The surety on any additional bond, except for cause shown, shall be the same as on the original bond. The bond shall be presented to the court for approval.

**Sec. 6. Similar Petitions.**

Petitions of guardians under Secs. 5152 and 5155 of the PEF Code, and petitions of guardians under Secs. 5521 and 5522 of the PEF Code, shall conform so far as possible to the provisions of this rule.

**Sec. 7. Personal Property.**

When a sale of personal property requires the approval of the court, then the petition for such approval shall conform so far as possible to the provisions of this rule.

**ORPHANS' COURT DIVISION RULE 5.11**

**Rule 5.11. Private Sale of Real Property or Options Therefor.**

In addition to the requirements of Pa.O.C. Rule 5.11, the requirements of local Rule 5.10 sections 1 and 2 shall be included on the petition for a private sale of real property or options therefor.

The court may require additional security in accordance with local Rule 5.10 Section 5.

**ORPHANS' COURT DIVISION RULE 5.12**

**Rule 5.12. Mortgage or Lease of Real Property.**

In addition to the requirements of Pa.O.C. Rule 5.12, the requirements of local Rule 5.10 sections 1 and 2 shall be included in the petition and a copy of the proposed mortgage or lease shall be attached as an exhibit.

**ORPHANS' COURT DIVISION RULE 5.16**

**Rule 5.16. Sale of Real Estate; Additional Security or Waiver Thereof.**

**Sec. 1. Additional Security.**

In the case of a personal representative who has been required to give bond, the petition for an order requiring additional security or excusing such personal representative from entering additional security under 20 Pa.C.S. § 3351, shall set forth the following:

(a) the name, residence, and date of death of decedent; whether the decedent died testate or intestate; the name of the personal representative and the date of appointment;

(b) the amount of the bond filed with the Register and the name of the surety thereon;

(c) a description adequate to identify the real estate to be sold and the improvements thereon;

(d) the name and address of the purchaser and the price to be paid;

(e) the names of all interested parties and whether or not they are sui juris.

When an order excusing the entry of additional security is requested, or when security previously entered is to be used to secure in whole or in part the proceeds of the sale referred to in the petition, there shall be attached to the petition a stipulation signed by the surety on the existing bond accepting liability for the proceeds of the real estate to be sold.

**Sec. 2. Exhibits.**

Exhibits to such petitions shall be attached in the following order:

(a) a copy of the will, if any;

(b) a copy of the inventory, if filed;

(c) a copy of the agreement of sale; and

(d) consents, if any, of the interested parties.

**Sec. 3. Surety.**

Except for cause shown, the surety on the bond of the personal representative at the time of appointment shall be surety on any additional bond.

**Sec. 4. Form of Additional Bond When Required.**

When an additional bond is required, or a personal representative is excused from entering additional security, an order of court in substantially the following form shall be annexed to the petition:

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of the annexed petition and on motion of \_\_\_\_\_, it is ordered, adjudged, and decreed that \_\_\_\_\_, (Personal Representative)

of the estate of \_\_\_\_\_, deceased, enter in the office of the Register of Wills additional security in the amount of \$\_\_\_\_\_, with \_\_\_\_\_ as surety and, upon the entry of the same, the said



\_\_\_\_\_, is authorized to receive (Personal Representative) the proceeds of the sale of the real estate known as \_\_\_\_\_, Pennsylvania as the (Number, Street and Municipality) same is more fully described in the petition.

#### ORPHANS' COURT DIVISION RULE 5.17

##### Rule 5.17. Compromise or Settlement of Wrongful Death or Survival Actions.

###### Sec. 1. *Petitions.*

Whenever a personal representative, who has a right of action to recover damages under the Survival Statutes and who has not brought suit, wishes to compromise or settle such a claim, whether or not any claim has been made for damages under the Wrongful Death Statute, the personal representative shall present his petition to the Orphans' Court Division for approval of the compromise or settlement. The petition shall contain the following averments:

(a) the name, age, state of health, residence and date of death of the decedent and whether the decedent died testate or intestate;

(b) the name of the personal representative, the date of the personal representative's appointment, that letters were granted and duly advertised, and the amount of bond, if any;

(c) the occupation of the decedent at the time of the decedent's death, the salary and average earnings, the name of the decedent's employer and address if the decedent was not self-employed;

(d) the names of all heirs or next of kin (noting those dependent upon the decedent) and whether they are sui juris, together with the names of their guardians, if any;

(e) the names and addresses of all creditors who have or had claims against the estate, whether or not they have been paid, and, if paid, by whom;

(f) a brief recital of the facts constituting the cause of action;

(g) a statement of reason for the proposed compromise or settlement, the amount thereof, including the amount of counsel fees and legal expenses, and the proposed apportionment between the survival action and the wrongful death action, if any; and

(h) a reference to an attached exhibit which shall contain a statement of counsel's professional opinion regarding the desirability of the settlement and reasons therefor, including a discussion with specific references to the factual circumstances as to both the liability and damages aspects of the case; a description of the services rendered; a description and the amount of reimbursable expenses requested, and the amount of fees requested, which for a minor or incapacitated person, except in extraordinary circumstances, shall not exceed 33-1/3% of the present value of a structured settlement or 33-1/3% of the gross recovery of any other settlement; and

(i) that notice of the presentation of the petition has been given to all interested parties who do not join.

The prayer of the petition shall be for approval of the compromise or settlement.

###### Sec. 2. *Exhibits.*

The following exhibits shall be attached to the petition:

- (a) a copy of the will, if any;
- (b) an affidavit of service of notice;
- (c) the joinder of all parties who consent; and
- (d) the exhibit described in Section 1(h) of this Rule.

###### Sec. 3. *Hearing.*

When the averments of the petition require it, the court upon its own motion or upon the request of any interested parties, will set a date for hearing.

###### Sec. 4. *Distribution.*

Distribution of the amount received in compromise or settlement of a wrongful death action shall be made in accordance with 42 Pa.C.S. § 8301. Distribution of the amount received in compromise or settlement of a survival action shall be made in accordance with the will of the decedent or pursuant to the intestacy statute.

###### Sec. 5. *Settlement of Action Filed.*

For approval of incapacitated person's claim where any action has been instituted, see Allegheny County Civil and Family Division Rule 2206.

#### ORPHANS' COURT DIVISION RULE 5.18

##### Rule 5.18. Petition to Settle Claims for Minors.

###### Sec. 1. *Contents of Petition.*

Where no action has been instituted, a petition by a guardian of a minor (as the term "guardian" is defined under Pa.R.C.P. 2026) for authority to settle a claim for damages proposed to be paid to the estate of a minor shall be verified by the guardian of the minor, shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall also state whether a surety bond was previously filed by the guardian and the amount thereof. The petition shall be accompanied by the following exhibits:

(a) A statement by counsel as to such counsel's professional opinion regarding the desirability of the settlement and reasons therefor, a description of the services rendered, a description and the amount of reimbursable expenses requested, and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3 percent of the present value of a structured settlement or 33-1/3 percent of the gross recovery of any other settlement;

(b) A statement by the attending physician as to the injuries sustained by the minor, treatment administered and the prognosis; and

(c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

###### Sec. 2. *Deposit of Funds by Order of Court.*

All petitions under this Rule where the proceeds of settlement are to be deposited in a savings Account or in a certificate of deposit, shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$\_\_\_\_\_ shall be deposited in the name of \_\_\_\_\_, a minor, by counsel of record in a savings account or certificate of deposit in a federally insured bank, savings and loan association or credit union. The savings account or certificate of deposit shall

be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF MAJORITY OR BY FURTHER ORDER OF COURT."

*Sec. 3. Annuity Contracts*

Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this court.

*Sec. 4. Settlement of Filed Action.*

For approval of a minor's claim where an action has been instituted, see Allegheny County Civil and Family Division Rule 2039.

**ORPHANS' COURT DIVISION RULE 5.19**

**Rule 5.19. Petition to Settle Claims for Incapacitated Persons.**

*Sec. 1. Contents of Petition.*

Where no action has been instituted, a petition by the guardian of the estate of an incapacitated person for authority to settle a claim for damages proposed to be paid to the estate of an incapacitated person shall be verified by the guardian of the estate of the incapacitated person, shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall also state whether surety bond was previously filed by the Guardian and the amount thereof. The petition shall be accompanied by the following exhibits:

(a) A statement by counsel as to such counsel's professional opinion regarding the desirability of the settlement and reasons therefor, a description of the services rendered, a description and the amount of reimbursable expenses requested, and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3 percent of the present value of a structured settlement or 33-1/3 percent of the gross recovery of any other settlement;

(b) A statement by the attending physician as to the injuries sustained by the incapacitated person, treatment administered and the prognosis; and

(c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

*Sec. 2. Annuity Contracts.*

(a) Where the terms of settlement of an incapacitated person's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this court.

(b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Department of court Records, Wills/Orphans' Court Division.

*Sec. 3. Settlement of Filed Action.*

For approval of an incapacitated person's claim where an action has been instituted, see Allegheny County Civil and Family Division Rule 2064.

**ORPHANS' COURT DIVISION RULE 5.20**

**Rule 5.20. Minors; Allowances for Support and Education.**

A petition for allowance pursuant to 20 Pa.C.S. Section 5164 shall set forth:

(a) the name, address and age of the minor, the person with whom the minor resides, and the date of appointment and qualification of the minor's guardian;

(b) the names and addresses of the minor's living parents, their incomes and whether their incomes are sufficient to support and maintain their children;

(c) the present net value and kind of the minor's estate, whether real or personal, the net income therefrom during the six months preceding the petition, and any other information respecting principal and income which may be of advantage to the court in fixing the amount to be authorized for the specific purpose;

(d) whether any person has made any provision by will or otherwise for the education and support of the minor and, if so, a copy thereof;

(e) all previous allowances by decree;

(f) the school or institution which it is proposed the minor shall attend, or information to substantiate the allowance for support, care or maintenance and how the desired allowance shall be paid; and

(g) a recommendation to the court of an amount that should be allowed.

**ORPHANS' COURT DIVISION RULE 5.21**

**Rule 5.21. Corporations Serving as Fiduciaries.**

*Sec. 1. Petitions.*

Subject to the provisions of Section 6 of this Rule, a petition of a corporation organized under the laws of the Commonwealth or of the United States having fiduciary powers, doing business for one year or longer and desiring to exercise fiduciary powers, shall set forth the following:

(a) the corporate name, the location of its business, the statutory authority for its existence, the date and purpose of its incorporation, any changes therein and the number of years it has been in operation;

(b) the names and addresses of its executive officers and directors and the stock in the petitioner held by each;

(c) the interest, direct or indirect, which the petitioner has in the capital stock of any other corporation organized for the conduct of a similar business; and the name of any corporation or group of allied persons or both holding or controlling a majority of the stock of the petitioner;

(d) if the petitioner is a national banking association, the grant of fiduciary powers to it by the Comptroller of the Currency (see Pa.C.S. § 160(c));

(e) that the petitioner will make a deposit of the sum of \$500 with the clerk on presentation of the petition, to be used so far as necessary to pay the fees of the Examiner of Fiduciaries and will make any further deposit in excess thereof that may be ordered by the court; and providing:

(f) the passage of a resolution by the board of directors of the petitioner

(i) that it will submit to a preliminary examination of all its books, assets and liabilities, and, if approved, will submit to all other examinations directed by the court and will pay all costs and expenses of examination fixed by the court;

(ii) that fiduciary funds and investments under the control of the court will not be mingled with assets owned by the petitioner or other assets in which it has any interest except as fiduciary,

(iii) that investments made by the petitioner as fiduciary shall be so designated that the estate or trust to which such investments belong shall be clearly shown;

(iv) that uninvested capital trust funds and income to be invested shall be segregated and designated as directed by applicable state and federal law;

(v) that it will submit to the court in January and July of each year a statement duly verified showing its financial condition at the close of business on December 31st and June 30th of each year in the form required by the Examiner of Fiduciaries;

(vi) that it accept the provisions of the Acts of Assembly relating to corporate fiduciaries now or hereafter in existence, and of all orders and rules of court relating to the petitioner;

(vii) that the petitioner will not become surety on any bond, except as otherwise allowed by law;

(viii) that designated officers will execute any and all petitions, writings and obligations necessary in the exercise of fiduciary powers and that their names and any changes therein will be filed of record with the Examiner of Fiduciaries:

(ix) that its counsel of record shall be the agent of the petitioner to receive all notices issuing from the court; and

(x) that the gross amount loaned by it to all its officers and directors and to the firms or houses in which they may be interested, directly or indirectly, shall not exceed the amount allowed by applicable state and federal law.

(g) whether the petitioner has applied to any other court in Pennsylvania for approval to exercise fiduciary powers, and the results of any such applications.

#### Sec. 2. Exhibits.

Exhibits shall be attached in the following order:

(a) a certified copy of its charter, amendments and renewals;

(b) the approval of the State Banking Department or a certified copy of the certificate from the Comptroller of the Currency granting it the right to exercise fiduciary powers;

(c) a certified copy of the resolution of the petitioner embodying the allegations of Section 1(f), of this Rule;

(d) a current financial statement of the petitioner showing its total assets and liabilities in the form required by the Secretary of Banking or the Comptroller of the Currency; and

(e) the certificate of approval, or order for authority to exercise fiduciary powers by the court of Common Pleas of the county where the corporate petitioner's principal office is located as well as all certificates of approval or orders for authority to exercise fiduciary powers which have been issued by any other court of any other county in Pennsylvania.

#### Sec. 3. Officer's Oath to Petition—Records for Examiner.

The petition shall be sworn to by an officer of the petitioner authorized by resolution. When the petition is presented to the court, counsel shall deliver to the Examiner:

(a) a certified copy of the last report of the petitioner's examination by the Secretary of Banking or the Comptroller of the Currency; and

(b) a copy of the petitioner's by-laws.

#### Sec. 4. Preliminary Order.

Upon presentation of the petition, a preliminary order will be made in the following form:

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the within petition having been presented in open court, upon consideration thereof it is ordered, adjudged and decreed that the petition be referred to \_\_\_\_\_, Examiner of Fiduciaries, who is directed to make a report thereon to the court.

#### Sec. 5. Final Order.

After examination and report by the Examiner and consideration by the court, a final order of approval may be made in the following form:

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it appearing to the court that the petition of \_\_\_\_\_, a corporation, for authority to exercise fiduciary powers, was presented in open court and referred to \_\_\_\_\_, Examiner, who has filed a report, and it further appearing from such petition and report that the petitioner has complied with the applicable laws and the rules of this court, and has subjected itself to all orders and rules of this court hereafter to be made, upon motion of \_\_\_\_\_, counsel for petitioner, it is ordered, adjudged and decreed that \_\_\_\_\_ be and is hereby authorized to act as fiduciary, when designated, chosen or appointed according to law.

#### Sec. 6. Suspension of Rule with Respect to Certain Corporations or Entities.

The application of this Rule shall be suspended with respect to corporations or entities desiring to exercise fiduciary powers in Allegheny County, Pennsylvania, if such corporation or entity is one of the following:

(a) a national bank authorized to exercise fiduciary powers pursuant to 12 U.S.C. 92(a) and to perform fiduciary services in this Commonwealth;

(b) a bank, a bank and trust company, a trust company or to the extent provided under the Pennsylvania Banking Code of 1965, a savings bank which is authorized to perform fiduciary services under Section 106 of the Pennsylvania Banking Code of 1965;

(c) a federal savings bank which is authorized to exercise trust powers by the Office of Thrift Supervision pursuant to 12 U.S.C. § 1464(n); or

(d) a bank, a bank and trust company, a trust company or savings bank which is regulated by the Office of Thrift Supervision, chartered under laws of another state or territory of the United States and satisfies the requirements of Section 106(b) of the Pennsylvania Banking Code of 1965.

Such corporation or entity shall submit to the Orphans' Court a copy of its charter, and for corporations or entities described under subsection (d) above an approval letter from the Pennsylvania Department of Banking under Section 106.

Corporations or entities qualifying under any of the above requirements need not comply with the requirements of this Rule, but shall file annually with the court a statement that they continue to be authorized to exercise fiduciary powers by their governing regulatory entity. In the event the corporation or entity has its authorization to exercise fiduciary powers revoked or suspended, the court shall be immediately notified.



**ORPHANS' COURT DIVISION RULE 5.22****Rule 5.22. Surety Companies.****Sec. 1. Petitions.**

A petition of a surety company, whether a stock company or a mutual company, having a capital and surplus of not less than \$4,000,000, with a minimum paid-in capital of \$1,000,000, to become surety on bonds of fiduciaries shall set forth in the following order:

(a) the corporate name, the location of its business, the statutory authority for its existence, the date and purpose of its incorporation, any changes therein, and the number of years it has been in operation;

(b) the amount, if any, of its capital stock, how paid, the number of shares issued and par value thereof;

(c) the amount of its capital and surplus;

(d) the names and addresses of its officers (excluding assistant officers), and directors and the ownership interest in the petitioner held by each;

(e) the interest, direct or indirect, which the petitioner has in the capital stock of any other corporation organized for conducting a similar business; and the name of any corporation or group of allied persons or both holding or controlling a majority of the stock of the petitioner;

(f) whether the petitioner has assumed or underwritten policies issued by any other company and in force at the date of its petition;

(g) the provision made to protect itself from excessive losses in the event of a catastrophe under employers' liability or workers' compensation contracts or otherwise;

(h) that on presentation of the petition, the petitioner will deposit a sum determined by the court, to be used as far as necessary to pay the fees of an examiner and will make any further deposit in excess thereof that may be ordered by the court;

providing:

(i) the passage of a resolution by the board of directors of the petitioner

(1) that it will submit to a preliminary examination of its books, assets and liabilities and, if approved, will submit to all other examinations ordered by the court and will pay all costs and expenses of examination fixed by the court;

(2) that fiduciary property coming into its custody will not be taken out of the jurisdiction of the court but will be managed and controlled by the company subject to orders of the court;

(3) that no suretyship will be accepted in any sum greater than allowed by any Act of Assembly of Pennsylvania;

(4) that it will submit to this court not later than the first week of March of each year a statement duly verified showing its financial condition at the close of business on December 31st preceding, in the form required by the Insurance Commissioner of the Commonwealth of Pennsylvania, together with a sworn or certified copy of the annual renewal certificate when issued by the Insurance Commissioner of Pennsylvania, permitting the transaction of its business within the Commonwealth;

(5) its acceptance of the provisions of the Acts of Assembly of Pennsylvania relating to surety companies now or hereafter in existence and to all final orders of court relating to the petitioner;

(6) that the names of its officers or agents authorized to execute petitions, writings, and obligations on its behalf, and any changes therein, will be filed of record in the court with the Examiner of Fiduciaries; and

(7) that its counsel of record shall be the agent of the petitioner to receive all notices issuing from the court.

**Sec. 2. Exhibits.**

Exhibits shall be attached in the following order:

(a) a certified copy of its charter with amendments and renewals;

(b) a certificate of authority to do business in Pennsylvania issued by the Insurance Commissioner;

(c) a certified copy of the resolution of the petitioner embodying the allegations of clauses (1), (2), (3), (4), (5), (6), and (7) of Sec. 1(i) of this rule;

(d) a financial statement of the petitioner showing its total assets and liabilities in the form required by the Insurance Commissioner of Pennsylvania; and

(e) a certified copy of the certificate appointing the Insurance Commissioner of Pennsylvania attorney in fact for the petitioner.

**Sec. 3. Officer's Oath to Petition. Records for Examiner.**

The petition shall be sworn to by an officer of the petitioner authorized by resolution to do so. When the petition is presented to the court, counsel shall deliver to the Examiner:

(a) a copy of the last report of the petitioner made to the Insurance Commissioner of any state;

(b) a certified copy of the last report of examination by the Insurance Commissioner of any state; and

(c) a copy of the petitioner's by-laws.

**Sec. 4. Preliminary Order.**

Upon presentation of the petition a preliminary order will be made in the following form:

And now, \_\_\_\_\_, 20\_\_\_\_, the within petition having been presented in open court, upon consideration thereof it is ordered, adjudged, and decreed that the petition be referred to \_\_\_\_\_, Examiner of Fiduciaries, who is directed to make a report thereon to the court.

**Sec. 5. Final Order.**

After examination and report by the Examiner and consideration by the court, a final order of approval may be made in the following form:

And now, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it appearing to the court that the petition of \_\_\_\_\_, a corporation, for authority to become surety on bonds or undertakings, was presented in open court and referred to \_\_\_\_\_, Examiner, who has filed a report, and it further appearing from such petition and report that the petitioner has complied with the applicable laws and with the rules of this court and has subjected itself to all orders and rules of this court hereafter to be made, upon motion of \_\_\_\_\_, counsel for petitioner, it is ordered, adjudged, and decreed that \_\_\_\_\_ be and is hereby authorized to become surety on bonds or undertakings permitted or required by law.



Sec. 6. *Annual Examination Fee.*

Every surety company, after approval by the court, shall annually deposit with the clerk a sum determined by the court for the expenses of examination of the annual records required to be submitted under Sec. 1(i)(4) in addition to the expense of any other examination which may be required.

**CHAPTER IX. AUDITORS AND MASTERS**

**ORPHANS' COURT DIVISION RULE 9.1**

**Rule 9.1. Notice of Hearings.**

Unless otherwise directed in the order appointing the auditor or master, 20 days' notice shall be given of a hearing to the interested parties.

**ORPHANS' COURT DIVISION RULE 9.6**

**Rule 9.6. Notice of Filing Report.**

Unless otherwise directed in the order appointing the auditor or master, notice of the filing of the report or of the intention to file the report shall be given to the interested parties.

**ORPHANS' COURT DIVISION RULE 9.7**

**Rule 9.7. Confirmation of Report.**

Sec. 1. *Objections.*

Objections to the report of a master or auditor may be filed by the parties within twenty (20) days after receiving notice of the filing of the report. Copies of the Objections shall be served upon all other parties and a courtesy copy shall be provided to the Judge who appointed the Master or Auditor. Objections shall be set forth precisely and without discussion. Any matters not covered by Objections are deemed to be waived.

Sec. 2. *Cross Objections.*

If a party files timely Objections, then any other party to the action may file Cross Objections within twenty (20) days after the filing of Objections.

Sec. 3. *Master/Auditor Fees.*

The Master/Auditor shall, after prior notice to all parties, petition the court to award the fees of the Master or Auditor. The petition shall state that the Master/Auditor has filed a report, given notice to counsel of the filing thereof and the Master/Auditor has no further duties to perform. The petition shall include a detailed list of services provided and the amount for which the Master/Auditor considers to be reasonable compensation.

Sec. 4. *Briefing and Argument.*

Within thirty (30) days of receipt of the filing of the Objections, the court shall schedule a briefing and argument schedule with regard to the Objections. After briefing and/or argument, the court shall enter such Order or Decree as may be appropriate with regard to the matter addressed by the Auditor/Master.

**Explanatory Comment:** The objection procedure provided for in the rule is exclusive to Chapter IX. Auditors and Masters and has no relevance to Rule 2.7 Objection to Account.

**CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS**

**ORPHANS' COURT DIVISION RULE 14**

**Rule 14. Incapacitated Persons; Guardians.**

Sec. 1. *Petition Contents.*

(a) A petition for the appointment of a guardian of the estate or person of an alleged incapacitated person shall set forth:

(1) the name, age, residence and post office address of the alleged incapacitated person;

(2) the names and addresses of the spouse, parents and presumptive adult heirs of the alleged incapacitated person;

(3) the name and address of the person or institution providing residential services to the alleged incapacitated person;

(4) the names and addresses of other service providers;

(5) the name and address of the person or entity whom petitioner asks to be appointed guardian;

(6) an averment that the proposed guardian has no interest adverse to the alleged incapacitated person;

(7) the reasons why guardianship is sought;

(8) a description of the functional limitations and physical and mental condition of the alleged incapacitated person;

(9) the steps taken to find less restrictive alternatives;

(10) the specific areas of incapacity over which it is requested that the guardian be assigned powers; and

(11) the qualifications of the proposed guardian.

(12) If a limited or plenary guardian of the estate is sought, the petition shall also include the gross value of the estate and the net income of the alleged incapacitated person from all sources to the extent known;

(13) the potential for conflict with regard to the issue of who will be appointed as guardian and with regard to the issue of capacity;

(14) the current status of the alleged incapacitated person (i.e. unconscious, unable to communicate due to a stroke, combative, etc.); and

(15) If an emergency guardian is sought, the petition shall also include an indication as to whether or not the condition of the alleged incapacitated person is one that will or will not be remedied within the first 72 hours.

(b) A consent, signed by the proposed guardian, shall be attached to the petition in which the proposed guardian shall agree to act as guardian of the person or the estate of the alleged incapacitated person if appointed by the Court and shall state that the proposed guardian has no interest adverse to that of the alleged incapacitated person and is not a fiduciary of any estate, trust or similar fund in which the alleged incapacitated person has an interest.

(c) The petition shall conclude with a prayer for the appointment of a guardian of the estate or person or both of the alleged incapacitated person and for the award of a citation directed to the alleged incapacitated person to show cause why he should not be adjudged an incapacitated person and why a guardian should not be appointed.

Sec. 2. *Preliminary Order; Notice; Service*

(a) Upon presentation of a petition for the appointment of a guardian, the Court will enter a preliminary order awarding the citation prayed for. The form of the preliminary order shall be substantially as set out in the appendix to this Rule.

(b) Written notice of the petition and hearing, to which shall be attached the citation and a copy of the petition and preliminary order, shall be provided to the alleged incapacitated person. The written notice shall be in large type and in simple language and shall indicate the

purpose and seriousness of the proceeding, the rights that can be lost as a result thereof, the date, time and place of the hearing, and that the alleged incapacitated person has the right to request the appointment of counsel, to have counsel appointed if the Court deems it appropriate, and to have such counsel paid for if it cannot be afforded.

(c) Personal service of the written notice, petition, citation and preliminary order shall be made on the alleged incapacitated person and the contents and terms of the petition shall be explained to such person to the maximum extent possible in language and terms the individual is most likely to understand. Service shall be no less than 20 days in advance of the hearing. In addition, notice of the petition and hearing shall be given in such manner as the Court shall direct to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he died intestate at that time, to the person or institution providing residential services to the alleged incapacitated person and to such other parties as the Court may direct, including other service providers. An Affidavit of Service shall be filed on or before the day of hearing.

### Sec. 3. *Notice of Retention of Counsel*

(a) Counsel retained by the person alleged to be incapacitated in a petition under 20 Pa.C.S.A. § 5511(A) shall enter an appearance and shall provide a copy thereof to the petitioner at least seven (7) days prior to the date set for hearing as set out in the appendix to this Rule.

(b) If petitioner does not receive notice under Sec. 3(a) that counsel has entered an appearance on behalf of the alleged incapacitated person, petitioner shall notify the Court in writing at least seven (7) days prior to the date set for hearing that the alleged incapacitated person is not represented by counsel as set out in the appendix to this Rule.

### Sec. 4. *Hearing*

At the time fixed for the hearing on the petition, testimony shall be submitted in support of the petition (See 20 Pa.C.S.A. §§ 5512.1, 5518 and 5518.1). The alleged incapacitated person shall be present in court at such hearing unless (1) the Court is satisfied, upon the deposition or testimony of, or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence; or (2) it is impossible for him to be present because of his absence from the Commonwealth.

### Sec. 5. *Appointment of Guardian*

(a) *Findings.* In all cases, the Court, upon presentation of proper proof, shall consider and make specific findings of fact as required by 20 Pa.C.S.A. § 5512(A).

(b) *Final Orders.* The Court shall determine whether a plenary or limited guardian of the person or estate of the alleged incapacitated person is required. The forms of final orders for the appointment of plenary and limited guardians are set out in the appendix to this Rule.

### Sec. 6. *Emergency Guardians*

(a) *Petition.* A petition for the appointment of an emergency guardian of the person or estate of the alleged incapacitated person shall both set forth the information required in 20 Pa.C.S.A. § 5511(E) and Sec. 1 of this Rule and shall be subject to the provisions of 20 Pa.C.S.A. § 5511 (including those relating to notification concerning the right to counsel and the appointment of such counsel for the alleged incapacitated person), unless the Court

directs in its order setting the time of the emergency hearing that the preparation and inclusion of such information is not feasible under the circumstances. Such emergency petitions must, however, contain facts and information sufficient to enable the Court to determine that: 1) the person allegedly lacks capacity; 2) is in need of the appointment of an emergency guardian; and 3) the failure to make such appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

(b) *Citation.* Upon presentation of an appropriate petition for the appointment of an emergency guardian of the person or estate of an alleged incapacitated person, the Court will enter an order awarding a citation, subject to the provisions of 20 Pa.C.S.A. § 5511(A), and will direct such notice as it shall determine to be feasible in the circumstances to persons appearing to be entitled to such notice. In addition to fixing a return day for the filing of a written answer to the petition (though such written answer shall not be mandatory), the order shall also fix a time and place for hearing on the petition. The citation, together with written notice of the Petition, to which shall be attached a copy of the petition and the order, shall be served personally upon the alleged incapacitated person prior to the hearing. The forms of orders for the setting of a hearing upon a petition for appointment of an emergency guardian of the person or the estate of an alleged incapacitated person shall be substantially as provided in the appendix to this Rule.

(c) *Hearing.* At the time fixed for hearing on the petition for appointment of an emergency guardian, testimony shall be submitted in support of the petition (See 20 Pa.C.S.A. §§ 5513 and 5518). The alleged incapacitated person shall be present at the hearing unless: 1) the Court is satisfied, upon the deposition, testimony or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence, or 2) it is impossible for him to be present because of his absence from the Commonwealth.

(d) *Appointment of Emergency Guardian.* Upon proper proof, the Court shall make a finding of incapacity and appoint an emergency guardian of the person or estate, or both, pursuant to 20 Pa.C.S.A. §§ 5512.1 and 5513 and, if the petition is for the appointment of an emergency guardian of the estate, will fix the amount of the surety bond, if any, to be filed by the guardian. The required bond must be submitted to the Court for approval and filed in the Clerk's office before the order of appointment will be released by the Court. The emergency guardian of an alleged incapacitated person shall have only and be subject to such powers, duties, and liabilities and serve for such time as the Court in its order of appointment shall direct. The forms of orders of appointment of an emergency guardian shall be substantially as provided in the appendix to this Rule.

### Sec. 7. *Inventory*

Within three months after the real or personal property of the incapacitated person comes into his possession or as otherwise ordered by the Court, a guardian of the estate of an incapacitated person shall verify by oath and file with the Clerk an inventory and appraisal of personalty and a statement of real estate, and a statement of any real or personal property which the guardian expects to acquire thereafter.

### Sec. 8. *Reports Required of Guardian*

(a) Each guardian of an incapacitated person shall file a report with the Court at least once within the first

twelve (12) months of his appointment or such earlier time as may be set by the Court and at least annually thereafter.

(b) The annual report of a guardian of the estate of an incapacitated person shall include:

(1) Assets held by the guardian and the current value thereof.

(2) All receipts and disbursements of principal and income since the date of appointment of the guardian, or, if later, since the date of the last annual report. The report shall identify expenditures which have been made since the date of appointment or, if later, the date of the last annual report, pursuant to any order for an allowance under 20 Pa.C.S.A. § 5536, or otherwise for the housing, maintenance, support medical expenses, rehabilitation, education and other needs of the incapacitated person.

(3) The estimated annual income of the assets held by the guardian and from other sources.

(4) Notice of the filing of the annual report by the guardian of an estate shall be provided to the guardian's surety, the guardian of the person if someone other than the guardian of the estate, the incapacitated person and his or her counsel, if any, and such other interested parties as the Court may direct.

The form of the Report of a guardian of the estate shall be substantially as set out in the appendix to this Rule.

(c) Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the estate of such incapacitated person shall file a final report with the Court and an Account covering the period from the date of the appointment of the guardian of the estate to the date of death of the incapacitated person or the adjudication of capacity.

(d) The annual report of guardian of the person of an incapacitated person shall include:

(1) Current address, type of placement and living arrangements of the incapacitated person, e.g.: private home, personal care facility, hospital, institution, etc.

(2) Major medical or mental problems of the incapacitated person.

(3) A brief description of the social, medical, psychological and other support services the incapacitated person is receiving.

(4) The opinion of the guardian as to whether the guardianship should continue or be terminated or modified, and the reasons therefor.

(5) The number and length of times the guardian visited the incapacitated person in the past year.

The form of the report of a guardian of the person shall be substantially as set out in the appendix to this Rule.

(e) Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the person shall file a final report with the Court, providing the address and type of placement of the incapacitated person as of the date of death or adjudication of capacity, number and length of times the guardian visited the incapacitated person since the last report, and the reason why the report is being filed.

#### Sec. 9. *Petition for Allowance*

A petition under 20 Pa.C.S.A. § 5536 for an allowance from the incapacitated person's estate during incapacity, may be presented by the guardian or any interested party. The petition shall set forth:

(a) the name of the guardian and the date of the guardian's appointment; if the petitioner is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest;

(b) the nature and present value of the incapacitated person's estate and the net annual income therefrom;

(c) the address of the incapacitated person; dependents, if any;

(d) the names and addresses of the incapacitated person's

(e) a statement of all claims of the incapacitated person's creditors known to the petitioner;

(f) all previous allowances by decree; and

(g) a prayer for the allowance requested.

No order for an allowance out of an incapacitated person's estate shall be made without prior notice to the incapacitated person's guardian, if any.

#### Sec. 10. *Sales, Mortgages, Leases, Exchanges and Options*

A petition for a sale, mortgage, lease, exchange or option of an incapacitated person's real or personal property shall comply with 20 Pa.C.S.A. §§ 3353, 5155, and 5521(B), and the applicable provisions of Rules 5.10, 5.11 and 5.12.

Notice of a sale or other transaction under this section shall be given to all persons who are sui juris and would be entitled to share in the estate of the incapacitated person if the incapacitated person died intestate at the time the petition is presented.

#### Sec. 11. *Small Estates*

(a) When the entire real and personal estate, wherever located, of a resident or non-resident alleged incapacitated person has a gross value of \$25,000 or less, a petition to have him adjudged incapacitated shall be filed in the form prescribed in Sec. 1 of this Rule except that the appointment of a guardian of his estate shall not be requested. After the hearing on such a petition and upon presentation of the required evidence, the Court will make a finding of incapacity as to the alleged incapacitated person and may authorize the person or institution maintaining the person to receive and hold or dispose of the property of the person without the appointment of a guardian or the entry of security.

(b) Without the appointment of a guardian, any amount in cash of a resident or non-resident incapacitated person may be ordered by the Court to be deposited in one or more savings accounts in the name of the person in banks, building and loan associations or savings and loan associations insured by a federal government agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured. Every such order shall contain a provision that no withdrawal can be made from any such account except as authorized by order of Court.

#### Sec. 12. *Foreign or Successor Guardian*

(a) A foreign guardian shall file an exemplification of the record of the foreign guardianship in the office of the Register of Wills and thereafter a petition with the Court



requesting full faith and credit to be given to the foreign adjudication of incompetency. The Court will enter a preliminary order awarding a citation directed to the alleged incapacitated person and providing that at least twenty days' written notice of the proceeding be given to all persons appearing to be entitled to such notice. In addition to fixing a return day for the citation, the order shall also fix a time and place for hearing on the petition. The citation, together with a copy of the petition and order, shall be served personally on the alleged incapacitated person. Notice to other persons shall be given personally or by registered or certified mail. The forms of preliminary and final orders as approved by the Court are as provided in the appendix to these Rules.

(b) The Court, after such notice to parties in interest as it shall direct, may without a hearing appoint a succeeding guardian to fill a vacancy in the office of guardian or

may appoint a co-guardian of the estate of an incapacitated person. Where the vacating guardian was a parent who is now deceased, any testamentary nominee of the parent shall be given preference by the court.

Sec. 13. *Distribution of Principal (Estate Plan)*

In all petitions brought under 20 Pa.C.S.A. § 5536(b), the Court will appoint a guardian ad litem to represent the interests of the incapacitated person at the hearing on the petition.

Alternate

In all petitions brought under 20 Pa.C.S.A. § 5536(b), petitioner shall (1) request the Court to appoint a guardian ad litem to represent the interests of the incapacitated person in the proceedings, or (2) assert facts and circumstances as to why such guardian need not be appointed.

TABLE OF APPENDICES

- Appendix A: Rescinded
- Appendix B-1: Preliminary Order awarding a Citation for Permanent Guardianship under Rule 14, Sec. 2(a)
- Appendix B-2: Preliminary Order awarding a Citation for Emergency and Permanent Guardian under Rule 14, Sections 2(a) and 6(a)
- Appendix C: Final Order appointing Permanent Limited Guardian under Rule 14, Sec. 5(b)
- Appendix D: Final Order appointing Permanent Plenary Guardian under Rule 14, Sec. 5(b)
- Appendix E: Order appointing Emergency Limited Guardian under Rule 14, Sec. 6(b)
- Appendix F: Order appointing Emergency Plenary Guardian Under Rule 14, Sec. 6(d)
- Appendix G-01: Rescinded
- Appendix G-02: Rescinded
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- Appendix H: Statement of Rights
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**Appendix B-1: Preliminary Order awarding a Citation for Permanent Guardianship under Rule 14, Sec. 2(a)**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: )  
 )  
 ) No.  
 \*1 \_\_\_\_\_ )  
 an alleged incapacitated person )

PRELIMINARY ORDER OF COURT  
(Non-Emergency Guardian)

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition having been presented in open Court, and upon consideration thereof, and upon motion of \* \_\_\_\_\_, Esquire, counsel for the Petitioner, it is ORDERED and DECREED that a Citation be awarded directed to \* \_\_\_\_\_, to show cause why \*he/she should not be adjudged an incapacitated person and a plenary guardian of \*his/her person and estate be appointed, returnable the \_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_ o'clock \_\_.m. prevailing time, at which time and place a hearing on the Petition for Appointment of a Plenary Guardian of the person and of the Estate of the Alleged Incapacitated Person will be held in the Orphans' Court Division of the Court of Common Pleas of Allegheny County, 17th Floor, Frick Building, 437 Grant Street, Pittsburgh, Pennsylvania 15219.

At least twenty (20) days written notice of the hearing shall be given to \* \_\_\_\_\_, the alleged incapacitated person, by serving \*him/her personally with a Citation and this Order of Court and a copy of the foregoing

<sup>1</sup> 3 Sections marked by asterisk (\*) must be completed by counsel before Court presentation.



Petition together with an explanation of the content and terms of the Petition; at least twenty (20) days written notice of the Petition and hearing shall also be given to the next of kin and other parties in interest named in the Petition either personally or by registered or certified mail.

BY THE COURT:

\_\_\_\_\_ J.

**Appendix B-2: Preliminary Order awarding a Citation for Emergency and Permanent Guardian under Rule 14, Sections 2(a) and 6(a)**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: \_\_\_\_\_ )  
 )  
 ) No.  
\*2 \_\_\_\_\_ )  
an alleged incapacitated person )

**PRELIMINARY ORDER OF COURT**  
(Emergency and Permanent Guardian)

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition having been presented in open Court, upon consideration thereof and on motion of \* \_\_\_\_\_, counsel for petitioner, it is ORDERED and DECREED that a Citation be awarded, directed to \* \_\_\_\_\_, to show cause why \*he/she should not be adjudged an incapacitated person and a \*plenary/limited guardian of \*his/her person and estate be appointed. The citation shall be returnable and an emergency and permanent hearing on the Petition and any answer thereto shall be held on the following dates and times:

Emergency Guardianship	Permanent Guardianship
Return Date:	Return Date:
Hearing Date:	Hearing Date:
Hearing Time:	Hearing Time:

Courtroom:

The alleged incapacitated person shall be given notice of the hearing on appointment of an emergency guardian of \*his/her person and estate by serving \*him/her personally with the Citation, this Order of Court and a copy of the foregoing Petition prior to the time of such emergency hearing.

OR

The court finds that service of notice of the hearing on appointment of an emergency guardian upon the alleged incapacitated person is not feasible under the circumstances and is, therefore, waived pursuant to 20 Pa.C.S. § 5513.

Any Answer or other response to the Petition shall be filed at the Office of the Register of Wills of Allegheny County sitting as Clerk of the Orphans' Court, First Floor, City-County Building, Pittsburgh, Pennsylvania 15219. Hearings shall be held at the Orphans' Court Division of the Court of Common Pleas of Allegheny County, 17th Floor, Frick Building, 437 Grant Street, Pittsburgh, Pennsylvania 15219.

The Court finds that strict compliance with 20 Pa.C.S. § 5511(E) and Rule 14, Section 1 of the Allegheny County Orphans' Court Division Rules (both relating to contents of the Petition) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an emergency guardian of the alleged incapacitated person.

The Court further finds that strict compliance with 20 Pa.C.S. § 5511(A) (relating to notification concerning the right to counsel and the appointment of counsel for the alleged incapacitated person) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an emergency guardian of the alleged incapacitated person.

At least twenty (20) days written notice of the hearing on appointment of a permanent guardian shall be given to \* \_\_\_\_\_, the alleged incapacitated person, by serving \*him/her personally with a copy of the Petition, the citation and this Order of Court, together with an explanation of their contents. At least twenty (20) days written notice of the petition and hearing on the appointment of a permanent guardian shall be given to the next of kin and other parties in interest named in the petition, either personally or by registered or certified mail.

BY THE COURT:

\_\_\_\_\_ J.

<sup>2</sup> 3 Sections marked by asterisk (\*) must be completed by counsel before Court presentation.

Appendix C: Final Order appointing Permanent Limited Guardian under Local Rule 14, Sec. 5(b)
IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT
DIVISION

IN RE: )
)
) No.
\*3 )
)
an alleged incapacitated person )

ORDER OF COURT DETERMINING PARTIAL INCAPACITY AND APPOINTING PERMANENT LIMITED GUARDIAN
OF PERSON AND ESTATE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, a hearing in this case having been held on \* \_\_\_\_\_,
and it appearing to the Court that \_\_\_\_\_, was served with a Citation and Notice of the hearing on
\_\_\_\_\_, and was present at the hearing (or) the Court finds that the physical or mental condition of
\* \_\_\_\_\_ would be harmed by \*his/her presence at the hearing, and further finds from the testimony:

- 1. That \* \_\_\_\_\_ suffers from \_\_\_\_\_, a condition or disability which partially impairs
\*his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning
\*his/her management of financial affairs or to meet essential requirements for \*his/her physical health and safety.
2. That there are insufficient supports available to assist \* \_\_\_\_\_ in overcoming such limitations and that
there exists no less restrictive alternative mechanism for decision making than the appointment of a limited Guardian.
3. That based on the partial incapacity of \* \_\_\_\_\_, to receive and evaluate information effectively and to
make or communicate decisions, a Limited Guardian of the Person and a Limited Guardian of the Estate are required on
a permanent basis.

NOW, THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED,
ADJUDGED and DECREED that \* \_\_\_\_\_ be and is hereby adjudged a partially incapacitated person.

\* \_\_\_\_\_ is appointed Limited Permanent Guardian of the Person of \* \_\_\_\_\_ and
\_\_\_\_\_ is appointed Limited Permanent Guardian of the Estate of \* \_\_\_\_\_.

The Limited Guardian of the Person shall have full authority to consent to the general care, maintenance and custody
of \* \_\_\_\_\_, except as follows: \_\_\_\_\_

The Limited Guardian of the Person shall assure that \* \_\_\_\_\_ receives appropriate services and shall
assist \*him/her in developing self reliance and independence.

The Limited Guardian of the Estate shall have the authority to marshal all of \* \_\_\_\_\_'s income and
assets except that \* \_\_\_\_\_, the incapacitated person, shall retain the following power and authority to act
on \*his/her own behalf: \_\_\_\_\_.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person
and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a
representative of the financial institution where the box is located or in the presence of a representative of the Orphans'
Court Division. The representative present at the time of entry shall make or cause to be made a record of the
incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the
incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by
the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed
within \_\_\_\_ days and annually thereafter.

Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of
existing orders, the guardian of the estate shall file a final accounting.

A Surety Bond in the amount of \_\_\_\_\_ shall be presented for approval by the Guardian of the Estate within five (5)
days of the date of this Order.

\* \_\_\_\_\_, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with
the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for
a hearing to review or terminate the adjudication of incapacity and guardianship herein established. If
\* \_\_\_\_\_ was not present at this hearing on the adjudication of \*his/her incapacity and the appointment of a
guardian then Petitioner shall serve upon and read to \* \_\_\_\_\_ the Statement of Rights attached to this
Order and marked Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of
the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:
\_\_\_\_\_ J.

\* 3 Sections marked by asterisk (\*) must be completed by counsel before Court presentation.

Appendix D: Final Order Appointing Permanent Plenary Guardian under Rule 14, Sec. 5(b)
IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT
DIVISION

IN RE: )
)
) No.
\*4 )
)
an alleged incapacitated person )

ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING PERMANENT PLENARY GUARDIAN OF
PERSON AND/OR ESTATE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, a hearing in this case having been held on \* \_\_\_\_\_,
and it appearing to the Court that \* \_\_\_\_\_, was served with a Citation and Notice of the hearing on
\* \_\_\_\_\_, and was present at the hearing (or) the Court finds that the physical or mental condition of
\* \_\_\_\_\_ would be harmed by his/her presence at the hearing, and further finds from the testimony:

- 1. That \* \_\_\_\_\_ suffers from \_\_\_\_\_, a condition or disability which totally impairs \*his/her
capacity to receive and evaluate information effectively and to make and communicate decisions concerning \*his/her
management of financial affairs or to meet essential requirements for his/her physical health and safety.
2. That there are insufficient supports available to assist \* \_\_\_\_\_ in overcoming such limitations and that
there exists no less restrictive mechanism for decision making that the appointment of a Plenary Guardian.
3. That based on the total incapacity of \* \_\_\_\_\_, to receive and evaluate information effectively and to
make or communicate decisions, a Plenary Guardian of the Person and Plenary Guardian of the Estate are required on a
permanent basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED,
ADJUDGED and DECREED that \* \_\_\_\_\_ be and hereby is adjudged a totally incapacitated person.
\* \_\_\_\_\_ is appointed Permanent Plenary Guardian of the Person of \* \_\_\_\_\_ and
\* \_\_\_\_\_ is appointed Permanent Plenary Guardian of the Estate of \* \_\_\_\_\_.

The Permanent Plenary Guardian of the Person shall have full authority to consent to the general care, maintenance
and custody of \* \_\_\_\_\_ without exception.
The Permanent Plenary Guardian of the Person shall assure that \* \_\_\_\_\_ receives appropriate services
and shall assist him/her in developing self-reliance and independence.

The Limited Guardian of the Estate shall have the authority to marshal all of \* \_\_\_\_\_'s income and
assets, pay his/her bills and manage \*his/her financial affairs as fully as \* \_\_\_\_\_ could do so \*himself/
herself if \*he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person
and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a
representative of the financial institution where the box is located or in the presence of a representative of the Orphans'
Court Division. The representative present at the time of entry shall make or cause to be made a record of the
incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the
incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by
the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed
within \_\_\_\_ days and annually thereafter in a form approved by the Orphans' Court Divisions.
Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of
existing orders, the guardian of the estate shall file a final accounting.

A Surety Bond in the amount of \_\_\_\_\_ shall be presented for approval by the Guardian of the Estate within five (5)
days of the date of this Order.

\* \_\_\_\_\_, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with
the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a
hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If \* \_\_\_\_\_ was not present at the hearing on the adjudication of \*his/her incapacity and appointment of a
guardian then Petitioner shall serve upon and read to \* \_\_\_\_\_ the Statement of Rights attached to this
Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with
the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

\_\_\_\_\_ J.

4 3 Sections marked by asterisk (\*) must be completed by counsel before Court presentation.

Appendix E: Order Appointing Emergency Limited Guardian Under Rule 14, Section 6(b)
IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT
DIVISION

IN RE: )
)
) No.
\*5 )
)
an alleged incapacitated person )

ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING EMERGENCY LIMITED GUARDIAN OF
PERSON AND/OR ESTATE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, a hearing in this case having been held on \_\_\_\_\_, and
it appearing to the Court that \* \_\_\_\_\_, was served with a Citation and Notice of the hearing on
\* \_\_\_\_\_, and was present at the hearing (or) the Court finds that the physical or mental condition of
\* \_\_\_\_\_ would be harmed by \*his/her presence at the hearing, and further finds from the testimony:

- 1. That \* \_\_\_\_\_ suffers from \* \_\_\_\_\_, a condition or disability which partially impairs
his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning
\*his/her management of financial affairs or to meet essential requirements for \*his/her physical health and safety.
2. That there are insufficient supports available to assist \* \_\_\_\_\_ in overcoming such limitations and that
there exists no less restrictive alternative mechanism for decision making than the appointment of a Limited Guardian.
3. That based on the partial in capacity of \* \_\_\_\_\_, to receive and evaluate information effectively and to
make or communicate decisions, a Limited Guardian of the person and Limited Guardian of the Estate are required on a
emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED,
ADJUDGED and DECREED that \* \_\_\_\_\_ be and hereby is adjudged a partially incapacitated person.

\_\_\_\_\_ is appointed Emergency Limited Guardian of the Person of \* \_\_\_\_\_ and
\_\_\_\_\_ is appointed Emergency Limited Guardian of the Estate of \* \_\_\_\_\_.

The Emergency Limited Guardian of the Person shall have authority to consent to the general care, maintenance and
custody of \* \_\_\_\_\_ with the exception of: \_\_\_\_\_.

The Emergency Limited Guardian of the person shall assure that \* \_\_\_\_\_ receives appropriate services
and shall assist \*him/her in developing self-reliance and independence.

The Emergency Limited Guardian of the Estate shall have the authority to marshal all of \* \_\_\_\_\_'s
income and assets except that \* \_\_\_\_\_, the incapacitated person, shall retain the following power and
authority to act on \*his/her own behalf:

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person
and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a
representative of the financial institution where the box is located or in the presence of a representative of the Orphans'
Court Division. The representative present at the time of entry shall make or cause to be made a record of the
incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the
incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by
the Guardian.

The appointment of Emergency Limited Guardian of the Person and Estate shall remain in effect until further Order of
Court.

NO BOND REQUIRED ON EMERGENCY LIMITED GUARDIAN APPOINTMENT.

The testimony from this hearing on the emergency adjudication of incapacity and guardianship herein established shall
be preserved and perpetuated for the hearing on the permanent adjudication of incapacity and guardianship.

\_\_\_\_\_, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with the
Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a hearing
to review or terminate the adjudication of incapacity and guardianship herein established.

If \* \_\_\_\_\_ was not present at the hearing on the adjudication of \*his/her incapacity and the appointment
of a guardian then Petitioner shall serve upon and read to \* \_\_\_\_\_ the Statement of Rights attached to this
Order of Court and marked as Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with
the Clerk of the Orphans' court within ten (10) days of the date of this Order.

BY THE COURT:

\_\_\_\_\_ J.

\* Sections marked by asterisk (\*) must be completed by counsel before Court presentation



Appendix F: Order Appointment Emergency Plenary Guardian under Local Rule 14, Section 6(d)
IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT
DIVISION

IN RE: )
)
) No. of
\*6 )

an alleged incapacitated person.

ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING EMERGENCY PLENARY GUARDIAN OF
PERSON AND/OR ESTATE

AND NOW, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, a hearing in this case having been held on
\* \_\_\_\_\_, and it appearing to the Court that \* \_\_\_\_\_ was served with a Citation and Notice of
this hearing on \* \_\_\_\_\_, and was present at the hearing (or) the Court finds that the physical or mental
condition of \* \_\_\_\_\_ would be harmed by \*his/her presence at the hearing, and further finds from the
testimony:

- 1. That \* \_\_\_\_\_ suffers from \* \_\_\_\_\_, a condition or disability which totally impairs
\*his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning
\*his/her management of financial affairs or to meet essential requirements for \*his/her physical health and safety.
2. That there are insufficient supports available to assist \* \_\_\_\_\_ in overcoming such limitation and that
there exists no less restrictive alternative mechanism for decision making than the appointment of a Emergency Plenary
Guardian.
3. That based on the total incapacity of \* \_\_\_\_\_ to receive and evaluate information effectively and to
make or communicate decisions, a Plenary Guardian of the Person and a Plenary Guardian of the Estate are required on
a Emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED,
ADJUDGED and DECREED that \* \_\_\_\_\_ be and hereby is adjudged a totally incapacitated person.

\_\_\_\_\_ is appointed Emergency Plenary Guardian of the Person of and \_\_\_\_\_ is appointed
Emergency Plenary Guardian of the Estate of \* \_\_\_\_\_.

The Emergency Plenary Guardian of the Person shall have authority to consent to the general care, maintenance and
custody of \* \_\_\_\_\_ without exception.

The Emergency Plenary Guardian of the Person shall assure that \* \_\_\_\_\_ receives appropriate services
and shall assist \*him/her in developing self-reliance and independence.

The Emergency Plenary Guardian of the Estate shall have the authority to marshal all of \* \_\_\_\_\_'s
income and assets, pay \*his/her bills and manage his/her financial affairs as fully as \* \_\_\_\_\_ could do so
\*himself/herself if \*he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person
and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a
representative of the financial institution where the box is located or in the presence of a representative of the Orphans'
Court Division. The representative present at the time of entry shall make or cause to be made a record of the
incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the
incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by
the Guardian.

The appointment of the Emergency Plenary Guardian of the Person and Estate shall remain in effect until further
Order of Court.

NO BOND REQUIRED ON EMERGENCY PLENARY GUARDIAN APPOINTMENT.

The testimony from this hearing on the emergency adjudication of incapacity and guardianship herein established shall
be preserved and perpetuated for the hearing on the permanent adjudication of incapacity and guardianship.

\* \_\_\_\_\_, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with
the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a
hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If \* \_\_\_\_\_ was not present at the hearing on the adjudication of \*his/her incapacity and the appointment
of a guardian then Petitioner shall serve upon and read to \* \_\_\_\_\_ the Statement of Rights attached to this
Order of Court and marked as Exhibit A. Proof of service of the Statement or Rights shall be filed by the Guardian with
the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

\_\_\_\_\_ J.

\* Sections marked by asterisk (\*) must be completed by counsel before Court presentation.

Appendix H: Statement of Rights
STATEMENT OF RIGHTS

AN ORDER HAS BEEN ENTERED BY A JUDGE OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, ORPHANS' COURT DIVISION, WHEREBY YOU HAVE BEEN ADJUDICATED AN INCAPACITATED PERSON AND UNABLE TO CARE FOR YOURSELF AND/OR MANAGE YOUR PERSONAL AFFAIRS. YOU HAVE THE RIGHT TO FILE EXCEPTIONS TO THE COURT'S DECISION WITHIN TEN (10) DAYS OF THE DATE OF THE COURT'S ORDER. IF YOU FAIL TO FILE EXCEPTIONS, THE ORDER WILL BECOME FINAL. IN THE EVENT THAT YOU FILE EXCEPTIONS AND THEY ARE DENIED, YOU HAVE A RIGHT TO FILE AN APPEAL TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE DENIAL OF THE EXCEPTIONS.

IN ADDITION, YOU MAY PETITION THE COURT AT ANY FUTURE TIME TO MODIFY OR TO TERMINATE THE GUARDIANSHIP IF THERE IS A CHANCE IN YOUR CAPACITY OR IF YOUR GUARDIAN FAILS TO PERFORM HIS/HER DUTIES IN ACCORDANCE WITH THE COURT'S ORDER.

IF YOU WISH TO APPEAL THE ORDER OR TO PETITION THE COURT TO MODIFY OR TERMINATE THE GUARDIANSHIP, YOU ARE ENTITLED TO BE REPRESENTED BY AN ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, THE COURT MAY APPOINT ONE TO REPRESENT YOU. IF YOU CANNOT AFFORD AN ATTORNEY, THE SERVICES OF AN ATTORNEY WHOM THE COURT MAY APPOINT FOR YOU WILL BE PROVIDED AT NO COST TO YOU.

Appendix I: State Police Gun Control Notification
COMMONWEALTH OF PENNSYLVANIA
NOTIFICATION OF MENTAL HEALTH COMMITMENT

The Uniform Firearms Act, 18 Pa.C.S. 6105(c)(4) specifies that it shall be unlawful for any person adjudicated as a incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under Section 302, 303, 304 of the Mental Health Procedures Act of July 9, 1976 (P.L. 817, No. 143) to possess, use, manufacture, control, sell or transfer firearms. This would include adjudication of incapacity pursuant to 20 Pa.C.S.A. § 5501. Pursuant to the Pennsylvania Mental Health Procedures Act, Section 109, notification shall be transmitted to the Pennsylvania State Police by the judge, mental health review officer or county mental health and mental retardation administrator within SEVEN days of the adjudication, commitment or treatment by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, PA 17100. NOTE: The envelope shall be marked "CONFIDENTIAL."

Place an "X" on either Involuntary Commitment or Adjudicated Incompetent
INVOLUNTARY COMMITMENT \_\_\_\_\_ ADJUDICATED INCOMPETENT \_\_\_\_\_

Date of Involuntary Commitment or Adjudicated Incompetent \_\_\_\_\_

INDIVIDUAL INFORMATION (INDIVIDUAL INVOLUNTARILY COMMITTED OR ADJUDICATED INCOMPETENT)

LAST NAME \_\_\_\_\_ FIRST \_\_\_\_\_ MIDDLE \_\_\_\_\_

JR., ETC. \_\_\_\_\_ MAIDEN NAME \_\_\_\_\_ ALIAS \_\_\_\_\_

DATE OF BIRTH \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

SEX \_\_\_\_\_ RACE \_\_\_\_\_ HEIGHT \_\_\_\_\_ WEIGHT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_

ADDRESS \_\_\_\_\_

NOTIFICATION BY (Please print name, address, area code, and phone number of agency or county court.)

County Submitting Notification \_\_\_\_\_

County Mental Health and Mental Retardation Administrator \_\_\_\_\_

County Mental Health Review Officer \_\_\_\_\_

Physician Certifying Necessity of Involuntary Commitment \_\_\_\_\_
(Required in accordance with Section 6105(c)(4) of the Uniform Firearms Act)

Hospital/Facility Providing Treatment/Address \_\_\_\_\_

Judge \_\_\_\_\_

SIGNATURE OF NOTIFYING OFFICIAL \_\_\_\_\_ DATE \_\_\_\_\_

Court Case Number \_\_\_\_\_ Date of Court Order \_\_\_\_\_

\*\*\*\*\*

NOTIFICATION OF PHYSICIAN'S DETERMINATION THAT NO SEVERE MENTAL DISABILITY EXISTS

The physician shall provide signed confirmation of the determination of the lack of severe mental disability following the initial examination under Section 302(b) of the Mental Health Procedures Act and pursuant to the Uniform Firearms Act, Section 6111.1(g)(3). Notice shall be transmitted by the physician to the Pennsylvania State Police through the county mental health and mental retardation administrator or mental health review officer.

Name of Physician (Please print) \_\_\_\_\_

**Appendix J-1: Consent of Guardian of Person**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: )  
)  
) No. \_\_\_\_ of \_\_\_\_\_  
)  
\*7 \_\_\_\_\_ )

an alleged incapacitated person.

**CONSENT OF PROPOSED GUARDIAN OF THE PERSON**

I, \* \_\_\_\_\_, do hereby consent to be appointed as the Guardian of the Person of \* \_\_\_\_\_, an alleged incapacitated person, if so appointed by the Court.

I understand that if I am appointed as guardian, I will be serving for the benefit of \* \_\_\_\_\_, an alleged incapacitated person, and I affirm that I will act in \*his/her best interest at all times.

I further understanding that if I am appointed as guardian, I will be required to report to the Orphans' Court Division on my ward's personal affairs on at least an annual basis.

Dated: \_\_\_\_\_  
Proposed Guardian

**Appendix J-2: Consent of Guardian of Estate**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: )  
)  
) No. \_\_\_\_ of \_\_\_\_\_  
)  
\*8 \_\_\_\_\_ )

an alleged incapacitated person.

**CONSENT OF PROPOSED GUARDIAN OF THE ESTATE**

I, \* \_\_\_\_\_, do hereby consent to be appointed as the Guardian of the Estate of \* \_\_\_\_\_, an alleged incapacitated person, if so appointed by the Court.

I understand that if I am appointed as guardian, I will be serving for the benefit of \* \_\_\_\_\_, an alleged incapacitated person, and I affirm that I will act in \*his/her best interest at all times.

I further understand that if I am appointed as Guardian of the Estate, I am accepting fiduciary responsibility for the financial affairs of \* \_\_\_\_\_, an alleged incapacitated person, and will be required to report to the Orphans' Court Division with regard to those financial affairs on at least an annual basis.

Dated: \_\_\_\_\_  
Proposed Guardian

**Appendix K: Notification of Retention of Lack of Counsel Under Rule 14, Section (3)**

Date of Letter

The Honorable \_\_\_\_\_  
Court of Common Pleas of Allegheny County  
Orphans' Court Division Courtroom \_\_\_\_\_  
1700 Frick Building  
Pittsburgh, PA 15219

Re: \*9 \_\_\_\_\_, an alleged incapacitated person  
Docket Number: \_\_\_\_\_ of \_\_\_\_\_  
Date of Hearing: \_\_\_\_\_

Dear Judge \_\_\_\_\_ :

With regard to the above-captioned matter, and in accordance with Allegheny County Local Orphans' Court Rule 14, Section 3(b), this letter is to inform you that to the best of my knowledge, information and belief, \* \_\_\_\_\_ is not presently represented by counsel in his/her own right in regard to the above referenced proceedings.

OR

With regard to the above-captioned matter, and in accordance with Allegheny County Local Orphans' Court Rule 14, Section 3(b), this letter is to inform you that to the best of my knowledge, information and belief, \* \_\_\_\_\_ is

<sup>7</sup> Sections marked by asterisk (\*) must be completed by counsel before Court presentation.  
<sup>8</sup> Sections marked by asterisk (\*) must be completed by counsel before Court presentation.  
<sup>9</sup> Sections marked by asterisk (\*) must be completed by counsel before Court presentation.

presently represented by counsel in his/her own right in regard to the above referenced proceedings. An appearance has been entered on his/her behalf by \* \_\_\_\_\_ whose address is \* \_\_\_\_\_ and whose telephone number is \* \_\_\_\_\_ .

Very truly yours,

\* \_\_\_\_\_  
Attorney for Petitioner

**Appendix L: Petition and Orders for Electroconvulsive Therapy for a Person under Civil Commitment  
IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT  
DIVISION**

IN RE: \_\_\_\_\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )  
\*10 \_\_\_\_\_ )

No. \_\_\_\_\_ of \_\_\_\_\_

an alleged incapacitated person.

**PETITION FOR ORDER OF COURT AUTHORIZING ELECTRO-CONVULSIVE THERAPY AS REQUIRED BY 55 PA.  
CODE § 5100.54, ARTICLE VI 2(b) (4)**

Your Petitioner, \* \_\_\_\_\_, pursuant to 50 Pa. §§ 7102, 7104, and 7305, and 55 Pa. Code § 5100.54, Article VI, 2 (b), hereby requests that this Court issue an Order authorizing electro-convulsive therapy for the Respondent, \* \_\_\_\_\_ and in support of such request, avers and represents as follows:

1. \* \_\_\_\_\_, is a \* \_\_\_\_\_ year old patient at \* \_\_\_\_\_, having been admitted to \* \_\_\_\_\_ on \* \_\_\_\_\_. Under an involuntary commitment order issued pursuant to Section \* \_\_\_\_\_ of the Mental Health Procedures Act (50 P.S. §\* \_\_\_\_\_).
2. By Order of Court dated \* \_\_\_\_\_, the Respondent \* \_\_\_\_\_ was found to be \* \_\_\_\_\_, and was committed or recommitted to \* \_\_\_\_\_ for involuntary in-patient care, for a period not to exceed \* \_\_\_\_\_ days, pursuant to Section \_\_\_\_\_ of the Mental Health Procedures Act (50 P.S. §\* \_\_\_\_\_). See Commitment Order and underlying Commitment Petition, attached as Exhibit 1.
3. \* \_\_\_\_\_'s domicile prior to admission to \* \_\_\_\_\_ was \* \_\_\_\_\_.
4. \* \_\_\_\_\_ carries a diagnosis of \* \_\_\_\_\_ which has been poorly responsive to treatment.
5. Over the last \* \_\_\_\_\_, \* \_\_\_\_\_ has had a number of treatment regimens of \* \_\_\_\_\_ which have failed to significantly improve \*his/her symptoms.
6. \* \_\_\_\_\_'s recent symptoms have included refusing to \* \_\_\_\_\_.
7. \_\_\_\_\_'s treatment team has recommended electro-convulsive therapy (ECT) to treat \*his/her psychiatric condition, and it has been documented in \*his/her record that all reasonable and less intensive treatment modalities have been considered, and that ECT represents the most effective therapy for \* \_\_\_\_\_ at this time.
8. \* \_\_\_\_\_, M.D., \* \_\_\_\_\_'s treating psychiatrist who has experience and training related to ECT, has evaluated \* \_\_\_\_\_ and has recommended ECT for \* \_\_\_\_\_. See Notarized Statement by Doctor \* \_\_\_\_\_, attached as Exhibit 2.
9. Attempts have been made to give \* \_\_\_\_\_ a full explanation of the anticipated nature and duration of the ECT, and why the treating psychiatrist is recommending ECT.
10. \* \_\_\_\_\_ has been told that \*he/she has the right to accept or refuse ECT, and that if \*he/she consents, \*he/she has the right to revoke \*his/her consent for any reason at any time prior to or between treatments.
11. \* \_\_\_\_\_ has, to date, been unwilling and/or unable to discuss the recommended ECT treatment with Doctor \* \_\_\_\_\_ or other \* \_\_\_\_\_ clinical personnel, and has neither consented to or refused the recommended ECT.
12. Because of \*his/her psychiatric condition, \* \_\_\_\_\_ clinical personnel believes that Respondent, \* \_\_\_\_\_ lacks the capacity to provide informed consent to the recommended medical treatment - i.e. ECT.
13. It is recommended by \* \_\_\_\_\_ that the ECT be begun as soon as possible; the ECT would be performed at \* \_\_\_\_\_.
14. Prior to initiating ECT for \* \_\_\_\_\_, \* \_\_\_\_\_, in accordance with standard procedure, would evaluate \* \_\_\_\_\_, and would make an independent medical determination of the need for and duration of ECT. See Exhibit 2.
15. This Petition is brought pursuant to 55 Pa. Code § 5100.54, Article VI (2)(4), which provides that when a patient's psychiatrist determines that the patient could benefit from ECT, but also believes that the patient does not have the capacity to give informed consent to ECT, a Court order authorizing ECT must be obtained before ECT can be administered to the patient.

<sup>10</sup> Sections marked by asterisk (\*) must be completed by counsel before Court presentation.



WHEREFORE, your Petitioner prays that this Court issue an Order authorizing the administration of ECT to the Respondent, \* \_\_\_\_\_ .

Respectfully submitted,

By \_\_\_\_\_  
Counsel for Petitioner

Dated: \_\_\_\_\_

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: \* \_\_\_\_\_ , )  
Respondent ) No.  
 )

**PRELIMINARY ORDER OF COURT**

NOW, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition having been presented, upon consideration thereof and on motion of counsel for the Petitioner, it is ORDERED and DECREED that a hearing be held to consider the Petitioner's request. The time and place of hearing on this Petition are fixed for the \_\_\_\_ day of \_\_\_\_\_, beginning at \_\_\_\_ o'clock, \_\_.M., prevailing time, in the Orphans' Court Division, 17th Floor, Frick Building, 437 Grant Street, Pittsburgh, Pennsylvania 15219.

The Respondent shall be given notice of the hearing on this Petition by serving \*him/her personally with this Preliminary Order of Court and a copy of the foregoing Petition prior to the time of the hearing.

BY THE COURT:

\_\_\_\_\_ J.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION**

IN RE: \* \_\_\_\_\_ , )  
Respondent ) No.  
 )

**ORDER OF COURT AUTHORIZING ELECTRO-CONVULSIVE THERAPY**

NOW, this \_\_\_\_ day of \_\_\_\_\_, this Court having reviewed and considered the Respondent's current mental condition, the treatment that has been provided to Respondent to date and the results of such treatment, and the recommendation by &his/her treatment team and treating psychiatrist for electro-convulsive therapy, and having found that Respondent, due to a psychiatric condition which significantly impairs \*his/her capacity to receive information effectively and to make and communicate decisions concerning \*his/her medical and psychiatric treatment is unable to make or communicate an informed decision regarding treatment by electro-convulsive therapy, this Court, in accordance with 55 Pa. Code § 5100.54, Article VI 2(b)(4), hereby authorized \_\_\_\_\_ to provide electro-convulsive therapy to Respondent, in accordance with their medical judgment, for a period not to exceed days from the date of this Order.

BY THE COURT:

\_\_\_\_\_ J.

**CHAPTER XV. ADOPTIONS  
ORPHANS COURT DIVISION RULE 15**

**Rule 15. Adoption.**

*Sec. 1. Venue.*

A proceeding for voluntary relinquishment, involuntary termination of parental rights, confirm consent to adoption, or adoption may be brought in the County of Allegheny if the parent or parents or the adoptee or person or persons who have filed a report of intent to adopt, reside in Allegheny County, or if an office of an agency having custody of or having placed the adoptee is located therein. Such a proceeding may also be brought with leave of Court in Allegheny County if the adoptee formerly resides in Allegheny County.

*Sec. 2. Parties.*

Any individual may be adopted, regardless of his age or residence. Any individual may become an adopting parent. Parent includes adoptive parent.

Sec. 3. *Voluntary Relinquishment. Relinquishment to Agency.*

*Petition.*

(a) A petition of a parent or parents for permission to relinquish forever all parental rights and duties with respect to a child under the age of eighteen years who has been in the care of an agency for a minimum period of three (3) days, or, whether or not the agency has the physical care of the child, the agency has received a written notice of the present intent to transfer to it custody of the child, executed by the parent, shall contain the following information:

- (1) The name and address of petitioner and identity, i.e., parent.
- (2) The name, address, age, racial background and religious affiliation of the parent or parents, and all alleged parents and any deceased parent.
- (3) The marital status of the mother as of the time of birth of the child and during one (1) year prior thereto, and, if the mother has ever been married, the name of her husband or husbands, and her maiden name and how prior marriages were terminated;
- (4) The name, age, date of birth, racial background, sex and religious affiliation of the child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
- (5) The name and address of the agency having care of the child;
- (6) The date when the child was placed with the agency;
- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the mother of the child was married within one (1) year prior to the birth of the child but identifies the natural father as a person other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);
- (9) The date on which the parent has executed a written notice of the present intent to transfer to the agency custody of the child, if said notice was executed;
- (10) The reasons for seeking relinquishment.
- (11) If Petitioner also seeks to terminate the parental rights of the putative father, then state whether or not the putative father has filed a petition to Voluntarily Relinquish his parental rights pursuant to 23 Pa.C.S.A. Section 2501 and 2503 and whether the putative father has filed an Acknowledgment of Paternity or Claim of Paternity pursuant to 23 Pa.C.S.A. Section 8302 or 8303.

The prayer shall be for permission to relinquish forever all parental rights and duties of the Petitioner with respect to the child and to award to the agency the custody of the child. The prayer may also be for permission to terminate the parental rights of the putative father pursuant to 23 Pa.C.S.A. Section 2503(d).

(b) *Exhibits.*

The petition shall have attached to it the following exhibits:

- (1) An original or certified birth certificate or certification of registration of birth of the child;
- (2) The written notice executed by the Petitioner to the agency of that parent's present intent to transfer to the agency custody of the child, if applicable;
- (3) The joinder of the agency having care of the child and the consent to the agency to accept custody of the child until such time as the child is adopted.
- (4) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of mother's previous election to resume maiden name, if applicable;
- (5) Original or certified copy of documentation from appropriate State Agency certifying Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed.

(c) *Preliminary Decree and Hearing.*

Upon presentation of the petition, the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten days after filing of the petition. Notice shall be given to the Petitioner. Notice of the hearing shall also be given to the other parent including any alleged natural father, to the putative father whose parental rights could be terminated pursuant to 23 Pa.C.S.A. Section 2503(d), and to the legal father (spouse of mother within during one (1) year prior to birth, if he is not identified as the natural father, and to the parents or guardians of a Petitioner who has not reached the age of 18 years. The Petitioner and an authorized representative of the agency (if agency is involved) shall be examined under oath at the hearing. The hearing shall be in private. The notices shall be in substantially the following forms, and Affidavit/Proof of Service of the required notices of hearing shall be filed with the Court at least five (5) days prior to the scheduled hearing.

- (1) *Notice to Petitioner of Hearing on Petition for Voluntary Relinquishment.*

(Caption of Case)

TO: \_\_\_\_\_ (name of petitioner) \_\_\_\_\_  
 MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON  
 THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_,  
 \_\_\_\_\_ (city) \_\_\_\_\_,  
 \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. YOUR PRESENCE IS REQUIRED AT THE HEARING. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

THE COURTS

LAWYER REFERRAL SERVICE  
 The Allegheny County Bar Association 920 City-County Building  
 Pittsburgh PA 15219  
 (412) 261-2088

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(2) *Notice to the Other Parent and Legal Father.*

(Caption of Case)

TO: \_\_\_\_\_ (other parent and/or legal father) \_\_\_\_\_  
 MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptive's name) \_\_\_\_\_, BORN ON  
 THE \_\_\_\_\_ DAY OF \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_,  
 \_\_\_\_\_ (city) \_\_\_\_\_ (county) \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED BY (petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE/HIS HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(3) *Notice to Putative Father whose rights may be terminated.*

(Caption of Case)

TO: \_\_\_\_\_ (name of putative father) \_\_\_\_\_  
 FATHER OF \_\_\_\_\_ (adoptive's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF  
 \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_,  
 \_\_\_\_\_ (city) \_\_\_\_\_ (county) \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED BY (petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE/HIS HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

YOUR RIGHTS TO (adoptive's name) MAY ALSO BE TERMINATED IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa.C.S.A. SECTION 5103 AND YOU FAIL TO EITHER APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS TO (adoptive's name) OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE  
 The Allegheny County Bar Association 920 City-County Building  
 Pittsburgh PA 15219  
 (412) 261-2088

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(4) *Notice to Parent(s) or Guardian of Petitioner who has not reached the age of 18 years.*

(Caption of Case)

TO: \_\_\_\_\_ MOTHER/FATHER OF \_\_\_\_\_, MINOR NATURAL FATHER/MOTHER OF  
 \_\_\_\_\_ (adoptive's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_,  
 \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_,  
 \_\_\_\_\_ (county) \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (name of minor natural parent) \_\_\_\_\_ HAS TO HIS/HER CHILD, \_\_\_\_\_ (adoptive's name) \_\_\_\_\_. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(d) *Final Decree.* (1) A decree of termination in substantially the following form shall be submitted to the Court at the hearing:

And now, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition For Voluntary Relinquishment of Parental Rights and duties to an Agency having been heard, upon consideration thereof and of the supporting testimony and it appearing that \_\_\_\_\_ desires to relinquish forever all parental rights with respect to \_\_\_\_\_, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore it is ordered, adjudged and decreed that all parental rights and duties of with respect to said child are hereby terminated in accordance with The Adoption Act, 23 Pa.C.S.A. Section 2501 and 2503; said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings; and that custody of \_\_\_\_\_ is hereby awarded to \_\_\_\_\_.

\_\_\_\_\_, J.

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa.C.S.A. Section 2503(d) then a decree in substantially the following form shall be submitted to the Court at the hearing:

And now, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition For Voluntary Relinquishment of Parental Rights and duties to an Agency having been heard, upon consideration thereof and of the supporting testimony and it appearing that \_\_\_\_\_ desires to relinquish forever all parental rights with respect to \_\_\_\_\_, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore it is ordered, adjudged and decreed that all parental rights and duties of with respect to said child are hereby terminated in accordance with The Adoption Act, 23 Pa.C.S.A. Section 2501 and 2503; said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father, \_\_\_\_\_ will not file a Petition to voluntarily relinquish his parental rights pursuant to The Adoption Act, 23 Pa.C.S.A. Section 2501 and 2503, he has not filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa.C.S.A. Section 5103, he has not appeared to object to the termination of his parental rights to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

Now, therefore it is ordered, adjudged and decreed that the parental rights of the putative father \_\_\_\_\_ with respect to said child are hereby terminated in accordance with 23 Pa.C.S.A. Section 2503(d); said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings;

It is further ordered and decreed that custody of \_\_\_\_\_ is hereby awarded to \_\_\_\_\_.

\_\_\_\_\_, J.

(e) *Right to file personal information.* At the time the decree of termination is transmitted to the parents whose rights are terminated, the Court shall advise that parent in writing of his or her right to place personal information on file with the Court and with the Department of Health pursuant to 23 Pa.C.S.A. Section 2905(d) (relating to impounding of proceedings and access to records).

#### Sec. 4 *Relinquishment to Adult Intending to Adopt Child.*

##### *Petition.*

(a) A petition of a parent for permission to relinquish forever all parental rights with respect to a child under the age of eighteen years who has been in the exclusive care of an adult or adults for minimum period of thirty days, and who have filed a Report of Intention to Adopt as required by the Adoption Act, 23 Pa.C.S.A. Section 2531 shall contain the following information:

- (1) The name and address of the Petitioner and identity, i.e., parent;
- (2) The name, address, age, racial background, and religious affiliation of the parent or parents; and all alleged parents and any deceased parent;
- (3) The marital status of the mother as of the time of the birth of the child and during one (1) year prior thereto, and if the mother has ever been married, the name of her husband or husband's and/or maiden name and how prior marriages were terminated;
- (4) The name, age, date of birth, racial background, sex and religious affiliation of child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
- (5) The date when the Report of Intention to Adopt was filed;
- (6) The date when the child was placed with the adult or adults intending to adopt;
- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the child is born out of wedlock and the father has been identified, information as to the father shall be set forth as required in subparagraph (2);
- (9) If the mother of the child was married within one (1) year prior to the birth of the child but identified the natural father as a person other than this spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);



(10) If the natural father is unknown, whether there has been any claim of paternity pursuant to 23 Pa.C.S.A. Section 5103.

(11) The reasons for seeking relinquishment.

(12) If Petitioner also seeks to terminate the parental rights of the putative father, then state whether or not the putative father has filed a Petition to Voluntarily Relinquish his parental rights pursuant to 23 Pa.C.S.A. Section 2502 and 2503 and whether the putative father has filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa.C.S.A. Section 5103.

The prayer shall be for permission to relinquish forever all parental rights to the child and to award to the adult or adults intending to adopt, custody of the child. The prayer may also be for permission to terminate the parental rights of the putative father of the child pursuant to the 23 Pa.C.S.A. Section 2503(d).

(b) *Exhibits.* The petition shall have attached to it the following

- (1) An original or certified birth certificate or certification of registration of birth of the child;
- (2) The separate consent of the adult or adults intending to adopt, to accept custody of the child;
- (3) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any previous elections to resume maiden name relating to the mother;
- (4) Original or certified copy of Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed.

(c) *Preliminary Decree and Hearing.* Upon presentation of the petition the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten (10) days after filing of the petition. Notice of the hearing shall be given to the Petitioner. Notice of the hearing shall also be given to the other parent, to the putative father whose parental rights could be terminated pursuant to 23 Pa.C.S.A. Section 2503(d), to the legal father (spouse of mother within one year prior to birth), if he is not identified as the natural father, and to the parents or guardians of a Petitioner who has reached the age of 18. The Petitioner and an authorized representative from the agency (if agency is involved), shall be examined under oath at the hearing, the hearing shall be in private. The notices shall be in substantially the following forms and Affidavit/Proof of Service of the required notices of hearing shall be filed with the Court at least five (5) days prior to the scheduled hearing.

(1) *Notice to Petitioner of Hearing on Petition for Voluntary Relinquishment.*

(Caption of Case)

TO: \_\_\_\_\_ (name of Petitioner) \_\_\_\_\_

MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) .

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. YOUR PRESENCE IS REQUIRED AT THE HEARING. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE  
 The Allegheny County Bar Association 920 City-County Building  
 Pittsburgh PA 15219  
 (412) 261-2088

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(2) *Notice to the Other Parent and Legal Father.*

(Caption of Case)

TO: \_\_\_\_\_ (name of Petitioner) \_\_\_\_\_

MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) .

A PETITION HAS BEEN FILED BY (Petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M., A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

\_\_\_\_\_  
 Name of Attorney  
 Address  
 Telephone Number

(3) Notice to Putative Father whose rights may be terminated.

(Caption of Case)

TO: \_\_\_\_\_ (putative father) \_\_\_\_\_
FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED BY (Petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, at \_\_\_\_M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

YOUR RIGHTS TO (adoptee's name) MAY ALSO BE TERMINATED IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa.C.S.A. SECTION 5103 AND YOU FAIL TO EITHER APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS TO (adoptee's name) OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
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Pittsburgh PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(4) Notice to Parent(s) or Guardian of Petitioner who has not reached the age of 18 years.

(Caption of Case)

TO: \_\_\_\_\_ MINOR NATURAL MOTHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (name of minor natural parent) \_\_\_\_\_ HAS TO HIS/HER CHILD \_\_\_\_\_ (adoptee's name) \_\_\_\_\_. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY THE NOTICE TO PETITIONER IS ATTACHED.

Name of Attorney
Address
Telephone Number

(d) Final Decree.

(1) A decree of termination in substantially the following form shall be submitted to the Court at the Hearing:

And now, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition for Voluntary Relinquishment of Parental Rights to an adult(s) intending to Adopt Child having come on to be heard, upon consideration thereof and of the supporting testimony and it appearing that \_\_\_\_\_, desires to relinquish forever all parental rights with respect to \_\_\_\_\_, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore, it is ordered, adjudged and decreed that the parental RIGHTS OF THE \_\_\_\_\_ with respect to said child are hereby terminated in accordance with 23 Pa.C.S.A. Section 2502 and 2503; said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings; and that custody of \_\_\_\_\_ is hereby awarded to \_\_\_\_\_.

\_\_\_\_\_, J.

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa.C.S.A. Section 2503(d), then a decree in substantially the following form shall be submitted to the Court at the hearing:

And now, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition for Voluntary Relinquishment of Parental Rights to an Adult(s) intending to Adopt Child having come on to be heard, upon consideration thereof and of the supporting testimony and it appearing that \_\_\_\_\_, desires to relinquish forever all parental rights with respect to \_\_\_\_\_, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore, it is ordered, adjudged and decreed that the parental rights of \_\_\_\_\_ with respect to said child are hereby terminated in accordance with 23 PA C.S.A. Section 2502 and 2503; said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father \_\_\_\_\_ will not file a Petition to voluntarily relinquish his parental rights pursuant to 23 Pa.C.S.A. Section 2502 or 2503 of the Adoption Act, he has not filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa.C.S.A. Section 5103, he has not appeared to object to the termination of his parental right to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

Now, therefore, it is ordered, adjudged and decreed that the parental rights of the putative father \_\_\_\_\_ with respect to said child are hereby terminated in accordance with 23 Pa.C.S.A. Section 2503(d); said termination to extinguish the power or right of said \_\_\_\_\_ to object to or receive notice of adoption proceedings;

It is further ordered and decreed that custody of \_\_\_\_\_ is awarded to \_\_\_\_\_ .

\_\_\_\_\_, J.

*Sec. 5. Alternative Procedure for Relinquishment. Petition to Confirm Consent to Adoption.*

(a) A petition of an intermediary (or adoptive parents where there is no intermediary) to confirm the consents to an adoption where the parent has executed a consent to adoption as required by 23 Pa.C.S.A. Section 2711 and has failed for period of forty (40) days after executing the consent to file or proceed with a petition for voluntary relinquishment of parental rights, shall contain the following information:

- (1) The name and address of the Petitioner and identity, i.e., parent, agency, intermediary;
- (2) The name, address, age, racial background and religious affiliation of the parents, including the mother and father and all alleged parents and deceased parent;
- (3) The marital status of the mother as of the time of birth of the child and during one (1) year prior thereto, and, if the mother has ever been married, the name of her husband or husbands, and her maiden name and how prior marriages were terminated;
- (4) The name, age, date of birth, racial background, sex and religious affiliation of the child; the names of the child shall include all names by which the child has been identified on the birth certificate and any other legal document;
- (5) The name and address of the agency, or the adopting parent(s) if non-agency adoption, having care of the child;
- (6) The date when the child was placed with agency, or adopting parents if non-agency adoption;
- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the mother of the child was married during one (1) year prior to the birth of the child but has identified the father as a person other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);
- (9) If the father is unknown, whether there have been any claims of paternity or acknowledgment of paternity filed pursuant to 23 Pa.C.S.A. Section 5103;
- (10) That the parent has executed a Consent to Adoption pursuant to 23 Pa.C.S.A. Section 2711 and has failed for a period forty (40) days after executing said consent to file or proceed with a petition for voluntary relinquishment of parental rights.
- (11) If a putative father's rights are being terminated, pursuant to 23 Pa.C.S.A. 2504(c), that said putative father will not execute a consent to adoption as required by Section 2711 and has not filed an acknowledgement of paternity or claim of paternity pursuant to 23 Pa.C.S.A. Section 5103;
- (12) That the agency, or the adopting parent(s) if a non-agency adoption, agree to accept custody of the child until such time as the child may be adopted;
- (13) The reasons for seeking relinquishment.

The prayer shall request the Court to Confirm the consent to adoption and to terminate the parental rights of that parent to the child and to award custody to either the agency or, in the case of a non-agency adoption, to the adults intending to adopt. If the rights of the putative father are not to be terminated pursuant to 23 Pa.C.S.A. Section 2504(c), the prayer shall also request same.

- (b) *Exhibits.* The petition shall have attached to it the following
- (1) The joinder, if obtainable, of a parent who is not a petitioner;
  - (2) An original or certified copy of the birth certificate or certification of registration of birth of the child;
  - (3) The separate consent of the agency, or of the adult or adults intending to adopt, to accept custody of the child until such time as the child may be adopted;
  - (4) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any previous elections to resume maiden name relating to the mother;
  - (5) If the natural father is unknown or if the rights of the putative father are to be terminated pursuant to 23 Pa.C.S.A. Section 2504(c), the original or certified copy of documentation from the appropriate state agency certifying that no Acknowledgment of Paternity or Claim of Paternity has been filed.

(6) The original Consent signed by the parent pursuant to 23 Pa.C.S.A. Section 2711.

(c) Preliminary Decree and Hearing. Upon presentation of the petition the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten (10) days after filing of the petition. Notice shall be given to the parent(s) whose rights are to be terminated, the other parent (including any alleged father), the putative father whose rights could be terminated pursuant to 23 Pa.C.S.A. Section 2504(c), to the legal father if he has not been identified as the father, and to the parent(s) or guardian(s) of a natural parent who has not reached the age of 18 years.

Affidavit/Proof of the required notice of hearing on termination of parental rights shall be filed with Court at least five (5) days prior to the scheduled hearing.

The Petitioner unless otherwise permitted by the Court, and the witnesses to the Consent executed pursuant to Section 2711 of the Adoption Act, shall also appear unless:

- (1) The signatures of the parent and witnesses are notarized; or
- (2) One of the witnesses to the Consent is an attorney; or
- (3) One of the witnesses to the Consent is a representative of a licensed adoption agency or child welfare agency representative.

(1) Notice to the Parent whose rights are being terminated.

(Caption of Case)

TO: \_\_\_\_\_ (name of parent) \_\_\_\_\_

MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) .

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED. YOUR ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE HEARING WILL GO ON WITHOUT YOU AND YOUR RIGHTS TO YOUR CHILD MAY BE ENDED BY THE COURT WITHOUT YOUR BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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Pittsburgh, PA 15219  
(412) 261-2088

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(2) Notice to the Other Parent of Hearing on Petition to Confirm consent and Terminate Parental Rights.

(Caption of Case)

TO: \_\_\_\_\_ (name of parent) \_\_\_\_\_

MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) .

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (parent's name) HAS TO YOUR CHILD, \_\_\_\_\_ (name of Adoptee) \_\_\_\_\_. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_ AT \_\_\_\_M. A COPY OF THE NOTICE TO \_\_\_\_\_ (parent's name) \_\_\_\_\_ IS ATTACHED HERETO.

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(3) Notice to Putative Father whose rights may be terminated pursuant to 23 Pa.C.S.A. Section 2504(c).

(Caption of Case)

TO: \_\_\_\_\_ (putative father) \_\_\_\_\_

FATHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_ .



A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (parent's name) \_\_\_\_\_ HAS TO YOUR CHILD, \_\_\_\_\_ (name of Adoptee) \_\_\_\_\_ THE COURT HAS SET A HEARING TO CONSIDER ENDING HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO \_\_\_\_\_ (parent's name) \_\_\_\_\_ IS ATTACHED HERETO.

THIS PETITION ALSO ASKS THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD \_\_\_\_\_ (adoptee's name) \_\_\_\_\_. YOU ARE WARNED THAT IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa.C.S.A. SECTION 5103 AND YOU FAIL TO APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING, THE HEARING WILL GO ON WITHOUT YOU BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE  
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Pittsburgh, Pennsylvania 15219  
(412) 261-2088

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(4) Notice to Parent(s) or Guardian(s) of Parent who has not reached the age of 18 years.

(Caption of Case)

TO: \_\_\_\_\_ MINOR NATURAL MOTHER OF \_\_\_\_\_ (adoptee's name) \_\_\_\_\_,  
BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital)  
\_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_,  
\_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (name of minor natural parent) \_\_\_\_\_ HAS TO (HIS/HER) CHILD \_\_\_\_\_ (adoptee's name). THE COURT HAS SET A HEARING TO CONSIDER ENDING (HIS/HER) RIGHTS TO (HIS/HER) CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_M. A COPY OF THE NOTICE TO \_\_\_\_\_ (parent's name) \_\_\_\_\_ IS ATTACHED HERETO.

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(d) Final Decree. A decree of termination in substantially the following form shall be submitted to the Court at the Hearing:

(1) DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, the foregoing Petition to Confirm Consent to Adoption having come on to be heard, upon consideration thereof and the consent attached thereto executed by \_\_\_\_\_ (name of parent) \_\_\_\_\_, (mother/father) of (adoptee's name) \_\_\_\_\_, and it appearing that \_\_\_\_\_ (name of parent) has failed for a period in excess of forty (40) days after executing the aforesaid consent to file or proceed with a Petition for Voluntary Relinquishment of Parental Rights, the Court finds that the facts averred in said petition are true and that the prayer of the petition should be granted;

NOW, THEREFORE IT IS ORDERED AND DECREED that the Consent to Adoption of \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ executed by (parent's name) be and is hereby confirmed in accordance with the Adoption Act, 23 Pa.C.S.A. Section 2504 and the parental rights of (parent's name) \_\_\_\_\_ to \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ be and are hereby terminated; said termination to extinguish the power or the right of said natural parent to object to or receive notice of adoption proceedings;

AND IT IS FURTHER ORDERED AND DECREED that custody of \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ be and is hereby awarded to \_\_\_\_\_ agency name, or adopting parent(s) name(s) if non-agency adoption).

BY THE COURT:

\_\_\_\_\_  
J.

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa.C.S.A. Section 2504(c), then a decree in substantially the following form shall be submitted to the Court at the hearing:

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, the foregoing Petition to Confirm Consent to Adoption having come on to be heard, upon consideration thereof and the consent attached thereto executed by \_\_\_\_\_ (parent's name) \_\_\_\_\_ (mother/father) \_\_\_\_\_ of \_\_\_\_\_ (adoptee's name), and it appearing

that \_\_\_\_\_ (parent's name) has failed for a period in excess of forty (40) days after executing the aforesaid consent to file or proceed with a Petition for Voluntary Relinquishment of Parental Rights, the Court finds that the facts averred in said petition are true and that the prayer of the petition should be granted:

NOW, THEREFORE IT IS ORDERED AND DECREED that the Consent to Adoption of \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ executed by \_\_\_\_\_ (parent's name) \_\_\_\_\_ be and is hereby confirmed in accordance with the Adoption Act, 23 Pa.C.S.A. Section 2504 and the parental rights of \_\_\_\_\_ (parent's name) to \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ be and are hereby terminated; said termination to extinguish the power or the right of said natural parent to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father \_\_\_\_\_ (putative father's name) will not execute a consent to an adoption as required by 23 Pa.C.S.A. Section 2711, has not filed an Acknowledgment of Paternity or Claim of Paternity pursuant to 23 Pa.C.S.A. Section 5103, has not appeared to object to the termination of his parental rights to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

NOW, THEREFORE, it is ORDERED AND DECREED that the parental rights of the putative father, (putative father's name) , with respect to said child are hereby terminated in accordance with 23 Pa.C.S.A. Section 2504(c); said termination to extinguish the power or right of said \_\_\_\_\_ (putative father's name) to object to or receive notice of Adoption proceedings;

IT IS FURTHER ORDERED AND DECREED that custody of \_\_\_\_\_ (adoptee's name) \_\_\_\_\_ is hereby awarded to \_\_\_\_\_ (agency, or adopting parent's name(s) if non-agency adoption.

BY THE COURT:

\_\_\_\_\_ J.

*Sec. 6. Involuntary Termination of Parental Rights Petition.*

(a) A petition for involuntary termination of parental rights with respect to a child under the age of 18 years may be filed by any of the following:

- (1) Any parent when termination is sought with respect to another parent;
  - (2) An agency; or
  - (3) The individual having custody of or standing in loco parentis to the child and who has filed a Report of Intention to Adopt.
- (b) The petition shall contain the following information:
- (1) The name and address of the petitioner and identity, i.e., parent, agency or other as permitted by the statute;
  - (2) The name, address, age, racial background and religious affiliation of the parent or parents and all alleged parents or person and any deceased parent;
  - (3) The marital status of the mother as of the time of the birth of the child and during one (1) year prior thereto, and if the mother has ever been married, the name of her husband or husbands and/or maiden name and how prior marriages were terminated;
  - (4) The name, age, date of birth, racial background, sex and religious affiliation of child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
  - (5) The date when the Intention to Adopt was filed;
  - (6) The date when the child was placed with the adult or adults intending to adopt;
  - (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
  - (8) If the child is born out of wedlock and the father has been identified, information as to the father shall be set forth as required in subparagraph (1);
  - (9) If the mother of the child was married within one (1) year prior to the birth of the child but identified the natural father as the person other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (1);
  - (10) If the natural father is unknown, whether there has been any acknowledgement of paternity pursuant to 23 Pa.C.S.A. Section 5103;
  - (11) The grounds for involuntary termination;

(c) The prayer shall be for a decree terminating forever all parental rights with respect to the child and awarding custody of the child to the petitioning agency or individual.

(d) *Exhibits.* The petition shall have attached to it the following exhibits:

- (1) An original or certified birth certificate or certification of registration of birth of the child;
- (2) The separate consent of the adult or adults intending to adopt, to accept custody of the child, or agency intending to accept custody;
- (3) The original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any elections to resume maiden name relating to the mother;

(4) The original or certified copy of Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed;

(5) A copy of the Court Order which adjudicated the child dependent, if child is currently under legal custody of Children and Youth Services or other child welfare services;

(6) If child was previously adopted, attach a certified copy of adoption decree.

(e) Preliminary Decree and Hearing.

Upon presentation of the petition the Court shall direct that it be filed and shall fix a date for hearing thereon not less than ten (10) days after the date of filing the petition. At least ten (10) days' notice of the hearing on the petition shall be given to the parent or parents, putative father, or parent of a minor parent whose rights are to be terminated and to the natural or appointed guardian of any parent or parents who is or are under the age of eighteen (18) years, by personal service or by registered mail to his or their last known address. Where personal service is not obtainable and the return receipt of the registered or certified mail does not bear the signature of the person to be notified, notice shall be given under appropriate Order of Court in accordance with Section 1(c) and (d) of Rule 12 of the Court, the last published notice to be at least ten (10) days prior to the date of hearing, the Court shall make a finding relative to the pertinent provisions of 23 P.A.C.S. Section 2531 of the Adoption Act, which finding shall be incorporated in a decree of termination of parental rights. The hearing may be private. Affidavit/Proof of Service of the required notices of hearing on termination of parental rights shall be filed with the Court at least five (5) days prior to the scheduled hearing.

(f) Notices.

(1) Notice to parent whose rights are being terminated of hearing on petition for involuntary termination of parental rights.

IN RE: ADOPTION OF \_\_\_\_\_, a minor.

No. \_\_\_\_\_ of \_\_\_\_\_ in the ORPHANS' COURT DIVISION OF THE ORPHANS' COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

TO: \_\_\_\_\_ (parent's name) \_\_\_\_\_

MOTHER/FATHER OF \_\_\_\_\_ (minor's name) \_\_\_\_\_, A MINOR, BORN \_\_\_\_\_ (IN) \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) .

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD \_\_\_\_\_ (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. A HEARING WILL BE HELD IN THE ORPHANS' COURT DIVISION, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON \_\_\_\_\_, AT \_\_\_\_\_, \_\_\_\_M. YOU ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE HEARING WILL GO ON WITHOUT YOU AND YOUR RIGHTS TO YOUR CHILD MAY BE ENDED BY THE COURT WITHOUT YOUR BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE  
The Allegheny County Bar Association 920 City-County Building  
Pittsburgh, PA 15219  
(412) 261-2088

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(2) Notice to the other parent of hearing on petition to terminate parental rights.

(Caption of Case)

TO: \_\_\_\_\_ (name of other parent) \_\_\_\_\_ MOTHER/FATHER/LEGAL FATHER OF \_\_\_\_\_ (adoptive's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_ .

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (parent's name), HAS TO YOUR CHILD \_\_\_\_\_ (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH PENNSYLVANIA ON \_\_\_\_\_, \_\_\_\_M. A COPY OF THE NOTICE TO \_\_\_\_\_ (parent's name) IS ATTACHED HERETO.

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(3) Notice to parent(s) or guardian(s) of parent who has not reached the age of 18 years.

(Caption of Case)

TO: \_\_\_\_\_ (name) \_\_\_\_\_ MOTHER/FATHER OF \_\_\_\_\_ (adoptive's name) \_\_\_\_\_, BORN ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_, AT \_\_\_\_\_ (hospital) \_\_\_\_\_, \_\_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_\_ (county) \_\_\_\_\_, \_\_\_\_\_ (state) \_\_\_\_\_.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS \_\_\_\_\_ (name of minor natural parent), HAS TO (HIS/HER) CHILD \_\_\_\_\_ (adoptive's name). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHT TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH PENNSYLVANIA ON \_\_\_\_\_, \_\_\_\_M. A COPY OF THE NOTICE TO \_\_\_\_\_ (parent's name) IS ATTACHED HERETO.

\_\_\_\_\_  
Name of Attorney  
Address  
Telephone Number

(g) Final Decree. A decree of termination in substantially the following form shall be submitted to the Curt at the hearing:

DECREE

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, the foregoing Petition for involuntary Termination of Parental Rights having come on to be heard, upon consideration thereof and of the supporting testimony and of the record, the Court finds that the facts averred in said Petition are true and the (name of parent) \_\_\_\_\_ (mother/father) (state grounds for termination with reference to minor) \_\_\_\_\_

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that all parental rights of \_\_\_\_\_ (parent's name) \_\_\_\_\_, to the minor \_\_\_\_\_ (minor's name), are hereby terminated, said termination to extinguish the power or the right of \_\_\_\_\_ (parent's name) \_\_\_\_\_, to object to or receive notice of adoption proceedings, and that the custody of the minor, \_\_\_\_\_ (minor's name), is hereby awarded to the \_\_\_\_\_ (agency, intermediary; or adoptive parent(s) \_\_\_\_\_.

BY THE COURT:

\_\_\_\_\_ J.

Sec. 7. Report of Intention to Adopt. Investigation.

(a) Every person now having or hereafter receiving or retaining custody or physical care of any child under the age of eighteen (18) years, other than that person's own child, grandchild, stepchild, brother or sister of the whole or half blood, or niece or nephew by blood, or adoption, for the purpose or with the intention of adopting the child, shall file a Report relating thereto in the office of the Clerk of the Orphans' Court Division of the Court of Common Pleas of Allegheny County and shall contain the information required by Sec. 2531 of the Adoption Act. The Report shall be verified by affidavit and be filed within thirty (30) days of the date when the child came into the custody or physical care of the person filing the Report.

Attach copy of preplacement report or homestudy (§ 2530-2531(7)). State whether birth mother has received counseling and where (§ 2505-2531(5)).

(b) When a Report of Intention to Adopt has been filed, the case will be referred to the Adoption Department for investigation, which shall report on matters alleged in the Report and any other matters that may affect the welfare of the child, including the matters set forth in Sec. 2535 of the Adoption Act.

(c) The Report of Intent to Adopt shall substantially conform with Form A set forth in the Appendix.

Sec. 8. Report of Intermediary.

(a) Intermediary—an intermediary is defined as any person or persons or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement. If more than one person or agency acts in this capacity, they shall be identified as co-intermediaries.



(b) Each intermediary who or which has arranged the adoption placement of any child under the age of 18 years shall within six (6) months after filing the Report of Intention to Adopt, make and file with the Clerk of the Orphans' Court a written report under oath, and shall thereupon forthwith notify in writing the adopting parent or parents of the fact that the report has been filed and the date thereof.

(c) *Contents of Report.* The Report of Intermediary shall set forth the following information as required by 23 Pa.C.S.A. § 2533:

- (1) The name and address of the intermediary.
- (2) The name, sex, racial background, age, date and place of birth and religious affiliation of the child.
- (3) The date of the placement of the child with the adopting parent or parents.
- (4) The name, racial background, age, marital status as of the time of birth of the child and during one (1) year prior thereto, and religious affiliation of the parents of the child and the husband of the natural mother if he was her husband within one (1) year of the birth of the child.
- (5) Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the child was entered.
- (6) The residence of the parents or parent of the child, if there has been no such decree of termination.
- (7) A statement that all consents required by Section 2711 of the Adoption Act (relating to consents necessary to adoption) are attached as exhibits on the basis upon which the consents are not required.
- (8) An itemized accounting of moneys and consideration paid or to be paid to or received by the intermediary or to or by any other person or persons to the knowledge of the intermediary by reason of the adoption placement.
- (9) A full description and statement of the value of all property owned or possessed by the child.
- (10) A statement that no provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the child.
- (11) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor.
- (12) A statement that medical history information was obtained and if not obtained, a statement of the reason therefor.
- (13) The report of the intermediary shall have attached to it the following exhibits:
  1. An original or certified copy of the birth certificate or certification of registration of birth of the child if it can be obtained.
  2. A certified copy of any decree of termination of parental rights or parental rights and duties made by a court order other than the court in which the petition for adoption will be filed.
  3. A certified copy of the acknowledgement of paternity filed from the appropriate state agency that no claim or acknowledgement of paternity has been filed by the putative father, or a statement that the same has been previously filed with the Court.
  4. Where applicable, a copy of the approved Interstate Compact Placement Request (ICPC-100-A).

(d) No intermediary shall place a child in the physical care or custody of a prospective adoptive parent or parents unless a home study containing a favorable recommendation for placement of a child with the prospective parent or parents has been completed within three (3) years prior thereto and which has been supplemented within one (1) year prior thereto. A home study shall be conducted by local public child care agency, an adoption agency or a licensed social worker designated by the Court to perform such study. See 23 Pa.C.S.A. § 2530.

(e) Where a home study required under 23 Pa.C.S.A. is in process but not yet completed, an intermediary may make an interim placement provided the requirements of 23 Pa.C.S.A. 2530(c) are met.

(f) The intermediary in making a placement may honor the preference of the natural parents as to the religious faith in which the adoptive parents intend to rear the adoptive child. However, no person shall be denied the benefits of a placement because of a religious belief in the use of spiritual means or prayer for healing, 23 Pa.C.S.A. § 2725.

(g) Report of the intermediary shall substantially conform with the form set forth in Form B in the Appendix to this Rule.

#### Sec. 9. *Petition for Adoption*

- (a) The petition for adoption shall contain the following information:
  - (1) The full name, residence, marital status, age, occupation, religious affiliation and racial background of the adopting parent or parents and their relationship, if any, to the adoptee.
  - (2) A statement that a report of intention to adopt under 23 Pa.C.S.A. § 2531, a report of intermediary under 23 Pa.C.S.A. § 2530 and a homestudy and preplacement report under 23 Pa.C.S.A. § 2530 have been filed, if required.
  - (3) The name and address of the intermediary, if any.
  - (4) The full name of the adoptee and the fact and length of time of the residence of the adoptee with the adopting parent or parents.
  - (5) If there is no intermediary or if no report of the intermediary has been filed or if the adoptee is over the age of 18 years, all vital statistics and other information enumerated and required to be stated of record by 23 Pa.C.S.A. § 2533, so far as applicable.

(6) If a change in name of the adoptee is desired, the new name. When the person to be adopted has attained age eighteen (18) and a change of name is desired, Petitioner must submit evidence showing compliance with the law relating to change of name before a decree will be made.

(7) That all consents required by 23 Pa.C.S.A. § 2711 (relating to consents necessary to adoption) are attached as exhibits or the basis upon which such consents are not required, or a statement that same have been previously filed with the Court.

(8) That it is the desire of the petitioner or the petitioners that the relationship of parent and child be established between the petitioner or petitioners and the adoptee.

(9) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor and an allegation of the efforts made to obtain the certificate with a request that the Court establish a date and place of birth at the adoption hearing on the basis of the evidence presented.

(b) The petition for adoption shall contain the following exhibits:

(1) The consent or consents required and executed in accordance with Pa.C.S.A. § 2711 (relating to consents necessary to adoption). If the consents are executed before a notary public then one (1) witness to the consent shall be required to appear at the hearing; otherwise at least one (1) of the witnesses to said consent shall appear at the hearing. The consents need not be attached if they were previously filed with the Court, in which case, the Petition shall so state.

(2) Original or certified copy of birth certificate or certification of registration of birth of the child, unless previously filed with the record.

(3) Original or certified copy of marriage certificate of adoptors.

(4) Divorce decree of both of adoptors, and election to resume maiden name, if applicable.

(5) Death certificate of former spouse of both adoptors, if applicable.

(6) Death certificate of natural parents, if applicable.

(7) Original or certified copy of divorce decree, if any, of natural parents when petitioner is a step-parent.

(c) The petition shall substantially conform with Form C set forth in the appendix.

(d) A completed Certificate of Adoption Form H 105.091 shall be filed with the Court by Petitioners at the time the Petition for Adoption is filed.

(e) *Hearing on Petition for Adoption—Disclosure of Fees and Costs.*

The Court shall fix a time and a place for hearing. The hearing shall be private or in open Court as the Court deems appropriate.

At the hearing there shall be offered in evidence a report by petitioner, certified by counsel for the petitioner, setting forth the amount of fees and expenses paid or to be paid to counsel and any other fee, costs and expenses paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

(f) *Requirements and Form of Decree*

If satisfied that the statements made in the Petition for Adoption are true, that the welfare of the person proposed to be adopted will be promoted by the requested adoption, and that all requirements of the Adoption Act have been met, the Court shall enter a decree so finding and directing that the person proposed to adopted shall have all the rights of a child and heir of the adopting parent or parents, and shall be subject to the duties of a child to him, or them. In any case in which the petition is withdrawn or dismissed, the Court shall enter an appropriate order in regard to the custody of the child.

Sec. 10. *Name of Adoptee*

If requested by the petitioner, the decree may provide that the adoptee shall assume the surname of the adopting parent or parents and any given first and middle names that may be chosen. If the adoptee is over age 18 and desires a change in name evidence must be submitted showing compliance with the law relating to change of name before a decree will be made.

Sec. 11. *Impounding of Proceedings.*

All petitions, exhibits, reports, notes of testimony, decrees, and other papers pertaining to any proceeding under the Act shall be kept in the files of the Court as a permanent record thereof and withheld from inspection. Information in those records may only be made available under certain circumstances set forth in 23 Pa.C.S.A.

Section 2905. Requests for information shall be by petition or letter to the Administrative Judge of the Orphans' Court Division.

Sec. 12. *Docket Entries.*

Upon the filing of any decree under the Adoption Act, the Clerk shall enter on the docket an entry showing the date of the decree, the name of the adopting parent or parents and the post-adoption name of the adoptee. Information identifying the natural parents shall not be entered on the docket.

Sec. 13. *Certificate of Adoption.*

After the decree is entered the Clerk shall issue to the adopting parent or parents a certificate reciting that the Court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in the Commonwealth, as evidence of the fact that the adoption has been decreed.

It shall be the responsibility of counsel for the adopting parent to inform other Divisions of this Court of the entry of an adoption decree if this information is relevant to proceedings in other Divisions. It shall be the responsibility of counsel for the adopting parent to also complete and file the Division of Vital Records forms necessary to amend the adoptee's birth certificate.

Sec. 14. *Other Requirements.*

Medical history information shall be as set forth in Sec. 2902 of the Adoption Act, counseling shall be as set forth in Sec. 2505, and representation for child and parent shall be as set forth in Sec. 2313.

Sec. 15. *Definitions.*

1. *Putative Father*—The alleged or reputed father that is not the legal father of a child born out of lawful wedlock. A putative father shall include one who has filed a claim of paternity as provided in Pa. 23 C.S.A. § 5103 prior to the institution of proceedings.

2. *Legal Father*—The spouse of the mother during the one (1) year immediately preceding the birth of the proposed adoptee.

**Appendix Form A**

**IN THE ORPHANS' COURT DIVISION COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

In Re Adoption of \_\_\_\_\_ )  
 )  
 ) No. \_\_\_\_\_ of \_\_\_\_\_  
 )

REPORT OF INTENTION TO ADOPT

1. PROPOSED ADOPTEE

Name of Child \_\_\_\_\_ Sex \_\_\_\_\_

Age, Date and Place of Birth \_\_\_\_\_

Racial Background \_\_\_\_\_ Religious Affiliation \_\_\_\_\_

The Birth Mother has (has not) had counseling relative to this adoption at \_\_\_\_\_ .

2. PERSON(S) INTENDING TO ADOPT THE CHILD

Names and Ages of Adopting Parents \_\_\_\_\_

Maiden Name of Adopting Mother \_\_\_\_\_

Address \_\_\_\_\_

Religious Affiliation \_\_\_\_\_

Date Child was Received \_\_\_\_\_

Other Adoptions \_\_\_\_\_

Adoptive Parent preplacement report or homestudy completed by \_\_\_\_\_

On \_\_\_\_\_

Attach a copy of the homestudy.

3. STATEMENT OF CIRCUMSTANCES SURROUNDING PROPOSED ADOPTING PARENT(S)

Include facts as to economic status, income, employment, home ownership, education, length of marriage, etc.

4. AGENCY OR INTERMEDIARY, AND AMOUNT OF FEE OR EXPENSES PAID OR TO BE PAID TO AGENCY OR INTERMEDIARY.

Name \_\_\_\_\_

Address \_\_\_\_\_

Amount of fees or expenses paid or to be paid to agency or intermediary:

\$ \_\_\_\_\_

We hereby certify that we now have custody of the child and intend to present a petition for adoption.

We acknowledge that we have been advised or know and understand that the natural parent(s) may revoke the consent to the adoption of this child until a Court has entered a decree terminating the parental rights and unless a decree terminating the parental rights has been entered, the natural parent may revoke the consent until the Court enters the final adoption.

\_\_\_\_\_  
Adoptive Father

\_\_\_\_\_  
Adoptive Mother

Date \_\_\_\_\_

AFFIDAVIT

Commonwealth of Pennsylvania )
County of Allegheny )
SS:

Before me, the undersigned authority, personally appeared \_\_\_\_\_ who being duly sworn according to law depose(s) and say(s) that the averments set forth in the foregoing Report of Intention to Adopt are true and correct.

Sworn to and subscribed before me
to this \_\_\_\_ day of \_\_\_\_\_ .

Appendix Form B

IN THE ORPHANS' COURT DIVISION COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

In Re Adoption of \_\_\_\_\_ )
No. \_\_\_\_\_ of \_\_\_\_\_

REPORT OF INTERMEDIARY

1. The name of the Intermediary \_\_\_\_\_
Address \_\_\_\_\_

2. Proposed Adoptee:
Name \_\_\_\_\_
Sex \_\_\_\_\_ Age \_\_\_\_\_ Date of Birth \_\_\_\_\_
Place of Birth \_\_\_\_\_
Racial Background \_\_\_\_\_
Religious Affiliation \_\_\_\_\_

3. Date of Placement of Proposed Adoptee with Adopting Parent(s)

4. Birth Mother
Name \_\_\_\_\_ Age \_\_\_\_\_
Racial Background \_\_\_\_\_
Religious Affiliation \_\_\_\_\_ Marital Status: \_\_\_\_\_
At date of birth \_\_\_\_\_
During one year prior to date of birth \_\_\_\_\_
If no decree of termination of parental rights has been entered, indicate current address:

5. Birth Father
Name \_\_\_\_\_ Age \_\_\_\_\_
Racial Background \_\_\_\_\_
Religious Affiliation \_\_\_\_\_ Marital Status: \_\_\_\_\_
At date of birth \_\_\_\_\_
During one year prior to date of birth \_\_\_\_\_

6. Legal Father (if applicable)
Name \_\_\_\_\_ Age \_\_\_\_\_
Racial Background \_\_\_\_\_
Religious Affiliation \_\_\_\_\_ Marital Status: \_\_\_\_\_
At date of birth \_\_\_\_\_



If no decree of termination of parental rights has been entered, indicate current address:

\_\_\_\_\_

7. Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the adoptee was entered. Attach a certified copy of the decree, unless said decree was entered in the Court of Common Pleas of Allegheny County, Pennsylvania.

8. All consents required by 23 Pa.C.S.A. Sec. 2711 (relating to consents necessary to Adoption) are attached as Exhibits hereto. If said consents have previously been filed with the Court, or if said consents are not necessary, explain why:

\_\_\_\_\_

9. Set forth an itemized accounting of moneys and consideration paid or to be paid to or received by the Intermediary by reason of the adoption placement:

\_\_\_\_\_

10. Set forth an itemized accounting of money and consideration paid or to be paid to or received by any other person(s) to the knowledge of the Intermediary by reason of the adoption placement.

11. Set forth a full description and statement of the value of all property owned or possessed by the adoptee.

12. Have the provisions of the statute regulating the interstate placement of children been complied with regarding the placement of the adoptee?

A copy of the signed approval from the Administrator of the Interstate Compact on the Placement of Children (when applicable) is attached hereto.

13. The original or certified copy of the adoptee's birth certificate or certification of registration of birth (is attached) (has been previously filed with the Court). If same cannot be obtained, state the reason therefor:

14. The medical history information on the birthparents has been obtained and provided to the adoptive parents, with identifying information having been deleted. If the medical history information has not been obtained, state the reason therefor:

\_\_\_\_\_  
Intermediary

AFFIDAVIT

Commonwealth of Pennsylvania )  
)  
)  
)  
)  
County of Allegheny )

SS:

Before me, the undersigned authority, personally appeared \_\_\_\_\_ who being duly sworn according to law, deposes and says that he/she is the intermediary in this case and has signed the within Report of Intermediary or that \_\_\_\_\_

(Agency)

is the intermediary and that he/she is \_\_\_\_\_ of said agency and is authorized to sign the within Report of Intermediary on behalf of said agency and that the averments contained therein are true and correct.

Sworn to and subscribed before me

This \_\_\_\_ day of \_\_\_\_\_ .

Appendix Form C

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA, ORPHANS' COURT DIVISION

IN RE: ADOPTION OF )  
)  
)

No.

PETITION FOR ADOPTION  
TO THE HONORABLE, THE JUDGE OF SAID COURT:

The petition of \_\_\_\_\_ (adoptive father) \_\_\_\_\_ and \_\_\_\_\_ (adoptive mother) respectfully represents:

1. That, he, she, they reside(s) at

\_\_\_\_\_  
\_\_\_\_\_

That petitioners are living together. The petitioners' residence(s) for the past 5 years were:

\_\_\_\_\_

2. That \_\_\_\_\_ (adoptive father) \_\_\_\_\_, petitioner, is \_\_\_\_\_ years of age, having been born at \_\_\_\_\_ on \_\_\_\_\_. He is of the \_\_\_\_\_ religion and of the \_\_\_\_\_ race. He is presently employed by \_\_\_\_\_, having an annual income of \_\_\_\_\_. His employers during the last 5 years were:

(names, address and dates)

His blood or legal relationship to the adoptee is \_\_\_\_\_

3. That \_\_\_\_\_, petitioner, is \_\_\_\_\_ years of age, having been born at \_\_\_\_\_ on \_\_\_\_\_. she is of the \_\_\_\_\_ religion and of the \_\_\_\_\_ race. She is presently employed by \_\_\_\_\_, having an annual income of \_\_\_\_\_.

Her employers during the last 5 years were:

\_\_\_\_\_

(names, address and dates)

Her blood or legal relationship to the adoptee, is \_\_\_\_\_

4. That Petitioner(s) (is) (are) married, single, divorced.

Petitioners were married on \_\_\_\_\_ at \_\_\_\_\_

5. Identify all previous marriages of either Petitioner and method of termination.

1.) That \_\_\_\_\_ was divorced at No. \_\_\_\_\_ Term, \_\_\_\_\_, \_\_\_\_\_ County, on \_\_\_\_\_ (date)

2.) That \_\_\_\_\_ was divorced at No. \_\_\_\_\_ Term, \_\_\_\_\_, \_\_\_\_\_ County, on \_\_\_\_\_ (date)

Attach an original or certified copy of any divorce decrees.

6. That Petitioner(s) (is) (are) the parent(s) of the following children (indicate age, other parent, residence, by whom supported, and if adopted. If adopted, state date, term and court:

7. That the Report of Intention to Adopt and the Report of Intermediary have been filed if required.

_____ (yes)	_____ (not required)	_____ (date filed)
_____ (yes)	_____ (not required)	_____ (date filed)

8. The name and address of the intermediary, if any, is \_\_\_\_\_

9. The name of the adoptee is \_\_\_\_\_, of the \_\_\_\_\_ sex. The adoptee is \_\_\_\_\_ years of age, having been born at \_\_\_\_\_ on \_\_\_\_\_. The adoptee has resided with Petitioner(s) for \_\_\_\_\_, since \_\_\_\_\_ (date)

10. The petitioner(s) (is) (are) financially capable of supporting the adoptee, having an annual income of \_\_\_\_\_ . THE FOLLOWING PARAGRAPHS, NOS. 11 AND 12, BOTH INCLUSIVE, MUST BE COMPLETED IF NO REPORT OF INTERMEDIARY HAS BEEN FILED OR IF THE ADOPTEE IS OVER THE AGE OF 18.

(Section 2701)

11. The petitioners have no knowledge of any money or thing of value, fees, expenses, or charges of any kind passing among or between them or any other person in connection with this adoption proceeding except:

(State fully if any exception.)

12. The adoptee's financial or property assets are as follows:

13. No provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the adoptee. A copy of the signed approval from the Administrators of the Interstate Compact on the Placement of Children (if applicable) is attached.

14. a.) The name of the natural mother of the adoptee is \_\_\_\_\_ ; her residence is \_\_\_\_\_ ; her age is \_\_\_\_\_ ; her racial background is \_\_\_\_\_ ; her religious affiliation is \_\_\_\_\_ ; her marital status at the time of the birth of the adoptee was \_\_\_\_\_ . And her marital status during one (1) year prior thereto was \_\_\_\_\_ .

b.) The name of the natural father of the adoptee is \_\_\_\_\_ his residence is \_\_\_\_\_ ; his age is \_\_\_\_\_ ; his racial background is \_\_\_\_\_ ; his religious affiliation is \_\_\_\_\_ ; his marital status at the time of the birth of the adoptee was \_\_\_\_\_ .

c.) The name of the legal father of the adoptee is \_\_\_\_\_ ; his residence is \_\_\_\_\_ ; his age is \_\_\_\_\_ ; his racial background is \_\_\_\_\_ ; his religious affiliation is \_\_\_\_\_ ; his marital status at the time of the birth of the adoptee was \_\_\_\_\_ .

15. The following required exhibits are herewith submitted:

(a) An original or certified copy of the birth certificate or certification of birth of adoptee unless previously filed with Court, then state when.

(b) The consents required by Section 2711(a) of the Adoption Act unless if previously filed with Court, then state when.

16. There (has) (has not) been a decree of termination of parental rights or parental rights and duties. State date and docket number of termination. If termination is in a Court other than Court of Common Pleas of Allegheny County, attached certified copy of decree.

17. List the names, addresses and telephone numbers of four (4) references who have known petitioners for the last five years, include a clergy, family doctor and two (2) non-relatives.

- 1. \_\_\_\_\_  
(clergy)
- 2. \_\_\_\_\_  
(family physician)
- 3. \_\_\_\_\_  
(non relative)
- 4. \_\_\_\_\_  
(non-relative)

18. That it is the desire of the petitioner(s) that the relationship of parent and child be established between petitioner(s) and the adoptee.

19. That it is desired that the new name of adoptee be

20. That the parent(s) of the adoptee, (is) (are) not entitled to the benefits of the Soldiers' and Sailors' Act of 1949, as amended (50 U.S.C.A. 501).

21. Attached hereto are consents to adoption given by the adoptee, if over twelve years of age, and the adopting parent's spouse, unless he or she joins in the adoption petition.

22. Your petitioner(s) declare(s) that (he) (she) (they) will perform all the duties of parent(s) to such adoptee, and believe(s) that the welfare of the adoptee will be promoted by this adoption and therefore, pray your Honorable Court enter a decree that \_\_\_\_\_ shall be the legally adopted child and heir of petitioner(s) and that the name of said adoptee shall hereafter be \_\_\_\_\_ .

Date \_\_\_\_\_

\_\_\_\_\_  
(Signatures of Petitioners)

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA )  
)  
COUNTY OF ALLEGHENY )  
)  
)

ss

Before me, the undersigned authority, personally appeared \_\_\_\_\_

(Names of Petitioners)

who, being duly sworn, according to law, depose(s) and say(s) that he, she, they are the petitioner(s) in the above entitled proceedings and that the averments set forth in the foregoing petition are true and correct.

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_.

(Notary Public)

My Commission Expires:

CONSENT OF ADOPTEE OVER 12

COMMONWEALTH OF PENNSYLVANIA )

)

COUNTY OF ALLEGHENY )

I, \_\_\_\_\_, being duly sworn according to law, hereby depose and say:  
(Name of Adoptee)

That I am the person whose adoption is proposed in these proceedings; that I am over twelve (12) years of age, having been born on \_\_\_\_\_, that I am familiar with the facts stated in the petition for adoption filed in these proceedings; and that the facts contained therein are true to the best of my knowledge and belief.

I hereby consent to the proposed adoption.

\_\_\_\_\_  
(Name of Adoptee)

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_.

(Notary Public)

My Commission Expires:

I, \_\_\_\_\_, of \_\_\_\_\_, have witnessed the execution by \_\_\_\_\_,  
(full name) (address) (birth parent)  
of the above to Adoption of \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ . My  
(adoptee)  
relationship to \_\_\_\_\_ is \_\_\_\_\_.

\_\_\_\_\_  
(signature of witness)

[Pa.B. Doc. No. 16-1290. Filed for public inspection July 29, 2016, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## BEAVER COUNTY

### Local Rules of Orphans' Court; No. 10937 of 2016

#### Administrative Order

The Supreme Court of Pennsylvania having adopted new Orphans' Court Rules with an effective date of September 1, 2016, it is hereby Ordered and Decreed that Beaver County Local Orphans' Court Rules are hereby adopted, after publication in the *Pennsylvania Bulletin* and on the Pennsylvania Judiciary's web application portal, with an effective date to coincide with the effective date of the new Supreme Court Orphans' Court Rules, i.e., September 1, 2016.

#### 1. Local Rule 1.3. Definitions.

"Publication." The *Beaver County Legal Journal* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, the Pennsylvania Orphans' Court Rules or by Order or Decree of Court.

#### 2. Rules Governing Specific Types of Petitions.

##### Local Rule 5.16. Settlement of Small Estates.

*Form of Petitions. Contents.* Petitions Under Probate, Estates and Fiduciaries Code § 3102 for distribution of small estates shall set forth:

1. The name and address of the petitioner and his/her relationship to the decedent.

2. The name, date of death and domicile of the decedent, whether he/she died testate or intestate, the dates of the probate of the Will and of the Grant of Letters, if any, and whether the personal representative has been required to give bond, and in what amount.

3. The names and relationships of all beneficiaries entitled to any part of the estate under the Will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under Probate, Estates and Fiduciaries Code § 3102, or otherwise, and whether any of them are minors, incapacitated persons or deceased, with the names of their fiduciaries, if any.

4. The person or persons, if any, entitled to the family exemption and, if a claim therefor is made in this



petition, any additional facts necessary to establish the prima facie right thereto, as required by Pennsylvania Orphans' Court Rule 5.2.

5. An inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit.

6. A list showing the nature, amount and preference of all unpaid claims against the estate and indicating which are admitted.

7. If any unpaid beneficiary, heir or claimant has not joined in the petition, a statement that twenty (20) days' notice of intention to present the petition has been given in accordance with these rules.

8. A prayer for distribution of the personal property to those entitled, and in appropriate cases, for the discharge of the personal representative.

*Exhibits.* There shall be attached to the petition the following exhibits:

1. The original of the Decedent's Will if it has not been probated, or a copy of the Will if it has been probated.

2. Joinders of unpaid beneficiaries, heirs and claimants insofar as they are obtainable.

3. An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, item of distribution or the family exemption.

4. Certificate of Register of Wills showing status of the inheritance tax.

*Appraisements.* No appraisal shall be required unless ordered by the Court.

#### **Auditors and Masters**

#### **3. Local Rule 9.1. Notice of Hearings.**

Auditors and Masters shall provide notice of hearings to be held by them to all interested parties, or to their counsel of record, in writing, at least thirty (30) days prior to the scheduled hearing.

#### **Local Rule 9.6. Notice of Filing Report.**

Auditors and Masters shall provide a copy of the report filed with the Orphans' Court to all interested parties, or to their counsel of record, simultaneously with filing of the report with the Court.

#### **Local Rule 9.7. Confirmation of Report.**

Interested parties shall have the right to file objections to an Auditor's or Master's report within twenty (20) days following filing of the report with the Court. If objections are filed, the Court will schedule argument on the matters at issue. If no objections are filed to the report within the required twenty (20) day period or following argument before the Court, the Court may enter an appropriate Decree to confirm the Auditor's report or adopting the Master's report, in full, or as modified following argument.

The District Court Administrator is Directed to:

1. file one (1) certified copy of the Local Rules with the Administrative Office of Pennsylvania Courts for publication on the Pennsylvania Judiciary's web application portal;

2. submit two (2) certified paper copies of the Local Rules and a copy on computer diskette or CD-ROM

containing the text of the Local Rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

3. submit one (1) certified copy of the Local Rules to the Supreme Court Orphans' Court Procedural Rules Committee;

4. publish a copy on the Beaver County Court of Common Pleas website, i.e., <http://www.beavercountypa.gov/courts/courts-common-pleas>, after publication in the *Pennsylvania Bulletin*, but no later than September 1, 2016;

5. keep a copy continuously available for public inspection and copying in the Office of the Clerk of the Orphans' Court of Beaver County; and

6. keep a copy continuously available for public inspection and copying in the Beaver County Law Library.

*By the Court*

JOHN D. McBRIDE,  
*President Judge*

[Pa.B. Doc. No. 16-1291. Filed for public inspection July 29, 2016, 9:00 a.m.]

## **BERKS COUNTY**

### **Amendments to Local Rules; No. 16-0094**

#### **Order**

*And Now*, this 20th day of July, 2016, with the exception of Berks County Orphans' Court Rules 15.5A and 15.5B, which shall remain in full force and effect as numbered, all Berks County Orphans' Court Rules are rendered null, void, deleted, and replaced by the following Berks County Orphans' Court Rules, which are hereby adopted and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator is *Ordered* and *Directed* to:

1. File one (1) certified copy of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies of this Order, including the newly adopted rules, and one (1) electronic copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy this Order, including the newly adopted rules, with the Orphans' Court Rules Committee of the Supreme Court of Pennsylvania.

4. File one (1) certified copy this Order, including the newly adopted rules, with the Berks County Law Library.

5. Keep continuously available for public inspection and copying, one (1) copy this Order, including the newly adopted rules, in the Office of the Register of Wills/Clerk of the Orphans' Court of Berks County.

The Register of Wills/Clerk of the Orphans' Court is *Ordered* and *Directed* to keep a copy of the Berks County Orphans' Court Rules posted on the office's official website.

*By the Court*

HONORABLE PAUL M. YATRON,  
*President Judge*

## CHAPTER I. PRELIMINARY RULES

### Rule 1.1A. Short Title and Citation.

These rules shall be known as the Berks County Orphans' Court Rules and shall be cited as "B.C.O.C.R."

### Rule 1.4A. Holidays.

Whenever a session of the court, a return day, or any time fixed for performing any judicial or clerical duty, falls on a holiday, a Saturday or a Sunday, the next following day not a holiday, a Saturday or a Sunday shall be the day for the session of court, the return day, or the time for performance of the judicial or clerical act, unless otherwise provided by these rules or order of court.

### Rule 1.6A. Mediation.

Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of court hearings, unless a stay is specifically requested by all interested parties, and so ordered by the court.

### Rule 1.7A. Counsel Information on Legal Papers.

All legal papers that are filed with the Register of Wills or the Clerk of Orphans' Court shall include counsel's name, address, and telephone number.

### Rule 1.7B. Entry and Withdrawal of Counsel.

(a) The practice regarding withdrawal of appearance as set forth in Pa.O.C. Rule 1.7(b) shall apply to withdrawal of appearance before the Register of Wills and the Clerk of the Orphans' Court.

(b) A petition to withdraw shall be served on the client and all interested parties and their counsel.

### Rule 1.9. Local Miscellaneous Rules.

#### Rule 1.9A. Sureties.

(a) *Individual Sureties.* Except in the case of corporations, applications for the approval of sureties, preferably on forms provided by the Clerk, shall be accompanied by the affidavit of the proposed surety setting forth, (a) his or her name, age, residence and occupation, and whether or not he or she is married; (b) the location of the real estate owned by the proposed surety, or so much as may be sufficient, with a reference to the record of the deed therefor, the nature and amount of the encumbrances, if any, the assessed value thereof and whether title is held by the proposed surety in fee; and (c) that the proposed surety believes that after the payment of his or her debts, engagements and liabilities, his or her worth is not less than an amount to be stated.

(b) *Corporate Sureties.* Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk, and that no bond shall be executed by any surety company after May 1 of any year until such a certificate issued after March 31 of the same year shall have been filed with the Clerk.

(c) No attorney of this or any other court shall become surety on any bond given in any proceeding in this court except by special leave of this court.

#### Rule 1.9B. Corporate Fiduciaries.

(a) Corporations having fiduciary powers and authorized to do business in the Commonwealth of Pennsylvania may act as fiduciaries in matters pending in this court; provided, however, that initially there shall be filed

with the Clerk a copy of the certificate issued by the State Banking Department, the Comptroller of Currency, or the Federal Reserve Board, as the case may be, evidencing its right to exercise fiduciary powers, certified to be a true and correct copy by an executive officer of the corporation. Thereafter, on or before the first day of May of each year such corporation shall file a statement, verified by the oath or affirmation of an executive officer thereof, that it continues to be qualified to act in such capacity.

(b) Except where required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

### Rule 1.9C. Depository of the Court.

(a) All moneys and securities which shall be paid or delivered into court, shall, upon the receipt thereof by the Clerk, be immediately deposited by him with the depository of the court, to the credit of the court in the particular estate or proceeding to which the same may belong; and said depository shall keep a separate account of each of said payments and deliveries, designating the same by the name of the particular estate or proceeding.

(b) No money shall be paid out of court by said depository, or securities delivered except on the checks or orders of the Clerk, countersigned by the Administrative Judge of this Division, and accompanied by a certificate, endorsed on said checks, or orders, under the hand of the Clerk and the seal of the court, that the money was ordered to be paid or the securities delivered.

### Rule 1.9D. Publication.

The *Berks County Law Journal* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, or by rule or order of court.

### Rule 1.9E. Language.

All writings not in English, submitted for filing, shall not be filed, unless there is attached to it and filed with it a translation into English, certified to be true and correct.

### Rule 1.9F. Interpreters.

Official or certified court interpreters shall be used for all proceedings before the court wherein a language interpreter is needed. Any person filing a pleading, motion, notice or other document relating to a proceeding pending before the court where it is known that a participant in the proceeding will need the assistance of an interpreter shall note in the caption of such document that "An interpreter is needed: English to (language); (language) to English." Counsel shall make the necessary arrangements for an official court interpreter to be present for any court proceedings.

**Comment:** A form to request interpreter services is available from Court Administration.

## CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

### Rule 2.5A. Audit Date.

Accounts for audit shall be called on the first Wednesday of each month at 9:00 a.m. in the courtroom as posted. Special days for audit may be appointed at the call or order of the court. Accounts shall be scheduled for audit on the audit date next following the expiration of 30 days after filing the account.

**Rule 2.7A. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution—Order.**

A proposed order for the scheduling of a status conference shall be attached to all objections to accounts or Petitions for Adjudication/Statements of Proposed Distribution. The proposed order shall be in the following form:

(CAPTION)  
O R D E R

AND NOW, (month) \_\_\_\_\_, 20\_\_\_\_, the above-captioned matter is scheduled for a status conference on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the chambers of the undersigned.

Counsel are directed to meet prior to this conference to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at said meeting and later conference.

BY THE COURT:

\_\_\_\_\_ J.

Distribution: Clerk of Orphans' Court; (all interested parties or their counsel)

**Rule 2.9A. Adjudication and Decree.**

A proposed Adjudication and Decree for confirmation of the account by the court shall be filed and served with the Petition for Adjudication/Statement of Proposed Distribution.

**Rule 2.10A. Foreign Heirs and Unknown Distributees—Report.**

(a) The report required by Pa.O.C. Rule 2.10(b) shall be incorporated in the Petition for Adjudication/Statement of Proposed Distribution. If the circumstance necessitating such a report arises after the filing of the Petition for Adjudication/Statement of Proposed Distribution, the report shall be filed and served on all parties whose rights might be affected by the circumstance, including the distributee's heirs, with notice in accordance with Pa.O.C. Rule 2.5(a)—(g).

(b) The report shall propose a resolution of the circumstance necessitating the report.

**Rule 2.12. Small Estate Petitions.**

**Rule 2.12 Settlement of Small Estates.**

(a) *Form of Petitions, Contents.* Petitions under Section 3102 of the Code for distribution of small estates shall set forth:

(1) the name and address of the petitioner and petitioner's relationship to the decedent;

(2) the name, date of death and domicile of decedent, whether decedent died testate or intestate, the dates of the probate of the will and of the grant of letters, if any, and whether the personal representative has been required to give bond, and in what amount;

(3) the names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under Section 3101 of the Code, or otherwise, and whether any of them are unascertainable, minors, incapacitated or deceased with the names of their fiduciaries or virtual representatives, if any;

(4) the person or persons, if any, entitled to the family exemption and, if a claim therefor is made in this petition, any additional facts necessary to establish the prima facie right thereto;

(5) an inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit;

(6) a list showing the nature, amount and preference of all unpaid claims against the estate and indicating which are admitted;

(7) an itemized list of disbursements made prior to the filing of the petition, indicating the payor and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, item of distribution or the family exemption

(8) if any unpaid beneficiary, heir, or claimant has not joined in the petition, a statement that notice in accordance with Pa.O.C. Rule 3.5(b) has been or will be given; and

(9) a prayer for distribution of the personal property to those entitled, and in appropriate cases for the discharge of the personal representative.

(b) *Exhibits.* There shall be attached to the petition the following exhibits:

(1) an original death certificate; and

(2) the original of the decedent's will if it has not been probated, or a copy of the will if it has been probated; and

(3) joinders or consents of unpaid beneficiaries, heirs and claimants insofar as they are obtainable.

(c) *Appraisements.* No appraisements shall be required unless ordered by the court.

(d) *Order.* A proposed order shall be attached to the petition authorizing the petitioner to marshal the assets and to make appropriate disbursements.

**CHAPTER III. PETITION PRACTICE AND PLEADING**

**Rule 3.4A. Preliminary Decree.**

The proposed form of a preliminary decree for the issuance of a citation shall include a space for a return date and a separate space for a hearing date should the court choose to schedule a hearing pending receipt of an answer. Unless the matter is specifically scheduled for a hearing on the return date, no interested party need appear on the return day except as desired to ensure the filing or lack of filing of a responsive pleading or objection.

**Rule 3.5A. Mode of Proceeding on Petition—Publication.**

If the subject matter of the action is real estate, the published notice shall contain a sufficient description of the real estate involved to identify it, but need not set forth a full and detailed description, if reference is made in said advertisement to the volume and page in the Recorder of Deeds office of this county where a recorded description of said property appears.

**Rule 3.5B. Emergency Petition.**

(a) Notwithstanding the procedure set forth in Pa.O.C. Rule 3.5, a petition for emergency relief may be filed whenever it would be advisable for the court to grant relief on an emergency basis so as to prevent irreversible



harm. A proposed order for relief and a rule to show cause in substantially the following form shall be attached to the petition.

(CAPTION)  
RULE TO SHOW CAUSE

AND NOW, \_\_\_\_\_, 20\_\_\_\_, upon consideration of the foregoing petition, it is ordered that:

- (1) a Rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;
- ( ) (2) the respondent shall file an answer to the petition within \_\_\_\_\_ days of this date;
- ( ) (3) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. before the undersigned Judge in Courtroom \_\_\_\_\_ of the Berks County Courthouse/Berks County Services Center.

BY THE COURT:

\_\_\_\_\_  
J.

Distribution: Clerk of the Orphans' Court (1); petitioner (1); respondent(s) by name (1 each)

(b) All petitions, motions, or applications necessitating personal presentation to the court shall be first presented to the Clerk for filing then made in the courtroom of the judge assigned to the case at a time prearranged with the judge and failing such prearrangement at either 9:30 A.M. or 1:30 P.M. on a day he or she is scheduled to sit. If the petition, motion, or application is of such a nature that interested parties have a right to be heard, the moving party shall give each interested party at least forty-eight (48) hours' notice of the time when the moving party will appear and present such petition, motion, or application, unless the emergency nature of the matter prevents such notice. In the latter situation, the moving party shall give as much notice as is reasonably possible.

(c) All petitions, motions, or applications in cases which have not yet been assigned to a judge shall be filed with the Clerk, who shall promptly assign a judge to the case.

(d) All petitions, motions, or applications which require immediate action to prevent irreversible harm in cases where the assigned judge is unavailable or in cases where no judge has been assigned to the case and the Clerk fails to assign a judge to the case in sufficient time to allow presentation to such judge shall be presented to the emergency motions judge in his or her courtroom at 9:30 A.M. or at 1:30 P.M. or at a time prearranged with that judge.

**Rule 3.6A. Pleadings Allowed After Petition—Order.**

(a) No counterclaims shall be permitted. Cross-petitions and motions are permitted.

(b) A proposed order for the scheduling of a status conference or hearing shall be attached to all responsive pleadings and shall be in the following form:

(CAPTION)  
O R D E R

AND NOW, (month) \_\_\_\_\_, 20\_\_\_\_, the above-captioned matter is scheduled for a:

- ( ) status conference on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the chambers of the undersigned.
- ( ) hearing on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the courtroom of the Berks County Courthouse/ Services Center assigned to the undersigned.

Counsel are directed to meet prior to the conference/hearing to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at said meeting and status conference.

BY THE COURT:

\_\_\_\_\_  
J.

Distribution: Clerk of Orphans' Court; (all interested parties or their counsel)

**Rule 3.9A. Preliminary Objections—Order.**

(a) A proposed order for the scheduling of a status conference or argument shall be attached to all preliminary objections and shall be in substantially the following form:

(CAPTION)  
O R D E R

AND NOW, (month) \_\_\_\_\_, 20\_\_\_\_, the above-captioned matter is scheduled for:

- ( ) a status conference on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the chambers of the undersigned.
- ( ) an oral argument on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the courtroom of the Berks County Courthouse/Services Center assigned to the undersigned. A brief in support of the preliminary objections shall be filed on or before \_\_\_\_\_, 20\_\_\_\_. A response brief shall be filed on or before \_\_\_\_\_, 20\_\_\_\_.

If an amended petition is filed within 20 days of service of the preliminary objections, this Order shall be rendered moot and the status conference or oral argument shall be deemed cancelled.

Counsel are directed to meet prior to the conference/argument to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at said meeting and status conference.

BY THE COURT:

\_\_\_\_\_  
J.

Distribution: Clerk of Orphans' Court; (all interested parties or their counsel)

(b) The court may grant or deny preliminary objections at any time if it finds such relief is appropriate upon the face of the pleadings.

**CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS**

**Rule 5.2A. Family Exemption—Valuation.**

If the exemption is claimed from personal property, valuation shall be established as the interested parties agree. Failing agreement, valuation shall be as set forth on a filed inventory, or if no inventory has been filed, valuation shall be established in accordance with the procedure set forth in Pa.O.C. Rule 5.2(a) and (b) or in such other manner as the court shall direct.

**Rule 5.2B. Notice.**

A copy of the petition for a family exemption and any required notices shall be served on the Department of Revenue.

**Rule 5.3A. Intestate Share to Surviving Spouse from Personal Property.**

If the spousal share is claimed from personal property, valuation shall be established as the interested parties agree. Failing agreement, valuation shall be as set forth on a filed inventory, or if no inventory has been filed,

valuation shall be established in accordance with the procedure set forth in Pa.O.C. Rule 5.3(a) and (b) or in such other manner as the court shall direct.

**Rule 5.3B. Notice.**

A copy of the petition claiming a spousal share and any required notices shall be served on the Department of Revenue.

**Rule 5.4A. Extension of Time for Filing of Surviving Spouse's Election.**

A petition for the extension of time in which the surviving spouse may file an election to take against the will and other conveyances shall include to the extent possible the same contents required by Pa.O.C. Rule 5.4(a).

**Rule 5.6A. Allowances from a Minor's Estate.**

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

(a) the manner of the guardian's appointment and qualification, and the dates thereof;

(b) the age and residence of the minor, whether the minor's parents are living, the name of the person with whom the minor resides, the name and age of the minor's spouse and children, if any;

(c) the value of the minor's estate, real and personal and the net annual income;

(d) the circumstances of the minor, whether employed or attending school; if the minor's parents, or other person or persons charged with the duty of supporting the minor, is living, the financial condition and income of such person and why such person is not discharging such person's duty to support the minor; and whether there is adequate provision for the support and education of the minor, the minor's spouse and children;

(e) the date and amount of any previous allowance by the court; and

(f) the financial requirements of the minor and the minor's family unit, in detail, and the circumstances making such allowance necessary.

**Rule 5.10A. Contents of Petition.**

(a) *All Petitions.* All petitions to sell real property at public sale shall set forth the name, address, and proposed compensation of the proposed auctioneer or other selling agent.

(b) *Personal Representative.* When it is required that a personal representative petition the court to sell real property at public sale, the petition (in addition to requirements of Pa.O.C. Rule 5.10) shall also set forth in separate paragraphs:

(1) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; and the date of the grant of letters;

(2) that the personal representative is not otherwise authorized to sell by statute; or is not authorized or is denied the power to do so by the will, or that it is desirable that the sale have the effect of a judicial sale, stating the reason;

(3) whether an inventory and appraisal has been filed; the total value of the property shown therein; and the value at which the real property to be sold was included therein;

(4) if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

(5) the names and relationships of all interested parties; a brief description of their respective interests; whether any of them are unascertainable, minors, incapacitated or deceased, and if so, the names of their fiduciaries or virtual representatives, if any;

(6) the improvements on the property, by whom it is occupied, its rental value, rents due and payable, and current tax assessment; and

(7) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

(c) *Trustee.* When it is required that a trustee petition the court to sell real property at public sale, the petition (in addition to requirements of Pa.O.C. Rule 5.10) shall also set forth in separate paragraphs:

(1) how title was acquired, stating the date and place of recording of the deed or other instrument of conveyance;

(2) a recital of the relevant provisions of the deed, trust, will, or other instrument of conveyance pertaining to the real property to be sold, and of the relevant history of the trust;

(3) the names and relationships of all interested parties; a brief description of their respective interests; whether any of them are unascertainable, minors, incapacitated or deceased, and if so, the names of their fiduciaries or virtual representatives, if any;

(4) the improvements on the property, by whom it is occupied, its rental value, rents due and payable, and current tax assessment;

(5) that the trustee is not otherwise authorized to sell by statute, or is denied the power by the trust instrument; or that it is advisable that the sale have the effect of a judicial sale, stating the reason; and

(6) sufficient facts to enable the court to determine that the proposed sale is for the best interest of the trust or its beneficiaries.

(d) *Guardian.* When it is required that a guardian of a minor or incapacitated person petition the court to sell real property at public sale, the petition (in addition to requirements of Pa.O.C. Rule 5.10) shall also set forth in separate paragraphs:

(1) the age of the ward;

(2) the names and addresses of the ward's next of kin and intestate heirs and the notice given them of the filing of the petition;

(3) how title was acquired, stating the date and place of recording of the deed or other instrument of conveyance;

(4) a recital of the relevant provisions of the deed, will, trust, or other instrument of conveyance relating to the real property to be sold;

(5) the nature and extent of the interest of the ward, and of other persons in the real property;

(6) the improvements on the property, by whom it is occupied, its rental value, rents due and payable, and current tax assessment; and

(7) sufficient facts to enable the court to determine that the proposed sale will be for the best interest of the ward.



(e) *Others.* A petition for the sale of real property, other than by partition, filed by a person other than a personal representative of a decedent's estate, trustee, or guardian shall comply with such of the above provisions as nearly resembles the circumstances necessitating the petition.

**Rule 5.10B. Exhibits.**

The following exhibits shall be attached to a petition to sell real property at public sale:

(a) a copy of the will, deed, decree or other instrument by which the fiduciary was appointed;

(b) any consents or joinders of interested parties, including any lienholder whose lien would otherwise not be discharged by the sale;

(c) the proposed terms and conditions of sale;

(d) affidavits of two disinterested and competent persons familiar with said real estate as to the value of the tract or tracts desired to be sold; and

(e) any appraisal reports that have been prepared within the preceding five years.

**Rule 5.10C. Notice. Return.**

(a) *Notice.* In addition to the notice requirements of any applicable statute or other rule or order of court, notice of the sale shall be conspicuously posted on the property to be sold and at a minimum of three other locations within the immediate vicinity of the property at least 20 days prior to the scheduled sale and be published in the legal periodical and newspaper of general circulation serving the property's locale a minimum of once per week for three successive weeks.

(b) *Return.* Within five days after the sale, or such other time as the order approving a public sale provides, the seller shall file a return in the form of an affidavit, which shall set forth:

(1) the public notice given;

(2) the price obtained; and

(3) the name and address of the purchaser and that such purchaser was highest bidder.

(c) Proof of publication shall be attached as an exhibit. A proposed order approving the sale to the highest bidder at the bid price shall be filed with the return.

**Rule 5.10D. Security.**

On the return day of the sale, the court, in the decree approving or confirming the sale, will fix the amount of bond or additional security which the personal representative, trustee, guardian, or other seller shall be required to enter, or will excuse the fiduciary from entering additional security.

**Rule 5.10E. Confirmation.**

Court approval or confirmation must be obtained before delivery of a deed.

**Rule 5.11A. Contents of Petition.**

A petition for the private sale or exchange of real property or for the grant of an option for any such sale or exchange shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale.

**Rule 5.11B. Exhibits.**

In addition to the exhibits required by Rule 5.10B, a copy of the agreement of sale shall be attached to the petition.

**Rule 5.11C. Security.**

The court, in the decree approving or confirming the sale, will fix the amount of bond or additional security which the personal representative, trustee, guardian, or other seller shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

**Rule 5.12A. Contents of Petition.**

A petition to mortgage or lease real property shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale.

**Rule 5.16. Assisted Conception Birth Registration.**

**Rule 5.16A. Assisted Conception Birth Registration.**

(a) *Form of Petitions, Contents.* A petition to establish the parentage of a child to be born by gestational carrier shall set forth:

(1) the name and address of each petitioner;

(2) the source of the oocyte/ova and sperm used for in vitro fertilization;

(3) the name and address of the physician(s) performing or supervising the oocyte/ova retrieval, sperm collection, in vitro fertilization, and transfer of viable embryo(s) into the uterus of the gestational carrier;

(4) the number of embryos transferred and the number of children expected to be born;

(5) the expected date and location of birth;

(6) the method by which it can be established that the pregnancy is the result of only the embryo transfer and not the result of fertilization of the carrier's own ova;

(7) that the petitioners intending to be named as the legal parents of the child(ren) expected to be born by the gestational carrier, the carrier, and, if married, the carrier's spouse have expressed their intentions that the intended legal parents shall have exclusive custody and all parental rights and duties with respect to the child(ren) and that they join in and consent to the petition; and

(8) that the Department of Health does not object to the relief requested.

(b) *Exhibits.* There shall be attached to the petition the following exhibits:

(1) an affidavit by the physician attesting to his or her being licensed to practice medicine and the facts relating to the the oocyte/ova retrieval, sperm collection, in vitro fertilization, transfer of viable embryo(s) into the uterus of the gestational carrier, the number of children expected to be born, and that the children expected to be born are not the genetic children of the gestational carrier;

(2) acknowledgments from the gestational carrier and, if married, her spouse, stating that the carrier and her spouse are not the biological parents of the child(ren), stating awareness that signing the acknowledgment will grant all the rights and duties of parenthood to the petitioners intending to be named as the legal parents and that the carrier and her spouse will have no such rights or duties, and authorizing the submission of the appropriate forms to the Division of Vital Records identifying the petitioners intending to be named as the legal parents as the parents. Each acknowledgment shall also state that the carrier and her spouse have the right to refuse to sign the acknowledgment and that such refusal would result in being named as the parent of the child(ren); and

(3) a stipulation by the petitioners and counsel for the Department of Health that the proposed decree is acceptable to them.

(c) *Decree.* A proposed decree shall be attached to the petition that shall deem the intended parents as the legal parents of the child(ren) and order that certified copies of the birth records of the child(ren) shall reflect the intended parentage. The proposed decree shall also direct that all court records be permanently maintained and withheld from inspection except as provided by 23 Pa.C.S.A. § 2915 (relating to records and access to information).

## CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

### Rule 7.1A. Discovery.

B.R.C.P. Rule 4001 shall not apply to Orphans' Court discovery practice. Failure to comply with discovery requests shall be addressed by the court directly upon the filing of a motion to compel, motion for protective order, or other appropriate motion.

### Rule 7.1B. Subpoenas.

Subpoenas shall be obtained from the Clerk of Orphans' Court, not the Prothonotary or Clerk of Court.

### Rule 7.2A. Briefs and Argument.

(a) A party filing a motion for judgment on the pleadings shall file simultaneously with the Clerk an argument brief, an argument scheduling order, and a proof of service.

(b) the non-moving party shall file an answer, argument brief and a proof of service within 30 days. If the non-moving party does not file an argument brief, the court shall decide the motion based on the record. In doing so, the court may in its discretion hear oral argument from the party that filed the motion for judgment on the pleadings, but not from the non-moving party.

### Rule 7.3A. Briefs, Argument, and Disposition.

(a) A party filing a motion for summary judgment shall file the original motion and a proof of service with the Clerk.

(b) The non-moving party shall file a response to the motion for summary judgment and proof of service no later than thirty (30) days after the date of service of the motion in accordance with Pa.R.C.P. 1035.3(a). If no response is filed within that thirty (30) day period, upon written notice to the court by the moving party, pursuant to Pa.R.C.P. 1035.3(d), the court may in its discretion grant the motion for summary judgment. If a response is filed, any party may file a request, accompanied by a scheduling order and a proof of service, to list the motion for summary judgment for oral argument.

(c) If the moving party files the request for argument, an argument brief shall be filed therewith and the non-moving party shall file a responsive brief within 20 days of service of the moving party's brief.

(d) If the non-moving party files the request for argument, accompanied by a proof of service, the moving party shall file and serve a brief of argument within 20 days of service of the request. The non-moving party shall thereafter file and serve an argument brief within 20 days of filing and service of the moving party's brief.

### Rule 7.5. Motions.

#### Rule 7.5A. Motions practice.

Unless another procedure is prescribed by a specific rule, a proposed order granting the relief requested and a

rule to show cause why the requested relief should not be granted shall be attached to all motions. Upon consideration of the motion, the court may grant relief immediately or issue a rule to show cause. The rule to show cause shall be in substantially the following form:

(CAPTION)

#### RULE TO SHOW CAUSE

AND NOW, \_\_\_\_\_, \_\_\_\_\_, upon consideration of the foregoing motion, it is ordered that:

(1) a Rule is issued upon the respondent to show cause why the movant is not entitled to the relief requested;

(2) the respondent shall file an answer to the motion within \_\_\_\_\_ days of this date;

( ) (3) the movant shall file a brief in support of the motion within \_\_\_\_\_ days after service of the answer;

( ) (4) the respondent shall file a brief in opposition to the motion within \_\_\_\_\_ days after service of the movant's brief;

( ) (5) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. before the undersigned Judge in the Berks County Courthouse/Services Center.

( ) (6) oral argument shall be held on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the courtroom of the Berks County Courthouse/Services Center assigned to the undersigned.

BY THE COURT:

\_\_\_\_\_ J.

Distribution: Clerk of the Orphans' Court (1); movant or counsel (1); respondent(s) by name (1 each) or counsel

## CHAPTER VIII. RECONSIDERATION

### Rule 9.1A. Manner of Notice.

An auditor or master shall give notice of scheduled hearings to all interested parties, or to their attorneys of record, in the manner provided in Pa.O.C. Rule 4.3 at least twenty days in advance.

### Rule 9.6A. Manner of Notice.

A copy of the auditor's or master's report and notice of its filing shall be served on all interested parties, or their attorneys of record, in the manner provided in Pa.O.C. Rule 4.3.

### Rule 9.7A. Objections.

(a) Consistent with the procedure set forth in Pa.O.C. Rule 2.7, any interested party shall have the right to file objections to an auditor's or master's report within twenty days of the notice of its filing. A proposed order for the scheduling of a status conference or oral argument shall be attached to all objections and shall be in substantially the following form:

(CAPTION)

O R D E R

AND NOW, (month) \_\_\_\_\_, 20 \_\_\_\_\_, the above-captioned matter is scheduled for:

( ) a status conference on \_\_\_\_\_, 20 \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the chambers of the undersigned.

( ) an oral argument on \_\_\_\_\_, 20 \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the courtroom of the Berks County Courthouse/Services Center assigned to the undersigned. A brief in support of the objections shall be

filed on or before \_\_\_\_\_, 20 \_\_\_\_ . A response brief shall be filed on or before \_\_\_\_\_, 20 \_\_\_\_ .

Counsel are directed to meet prior to the conference/argument to reduce fact questions and legal issues to a minimum; and, further shall be authorized to settle at said meeting and status conference.

BY THE COURT:

J.

Distribution: Clerk of Orphans' Court; (all interested parties or their counsel)

(b) The court may grant or deny objections at any time if it finds such relief is appropriate upon the face of the objections.

Rule 9.7B. Confirmation.

If no objections are filed within twenty days of the notice of the report's filing, the court may enter a decree confirming the auditor's report or adopting the master's report or schedule additional proceedings as it deems appropriate.

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule 14.2A. Representation of alleged incapacitated person.

No petitioner or person alleged to have been acting against the best interests of the alleged incapacitated person shall attempt to obtain counsel for an alleged incapacitated person, except that a petitioner may contact an attorney who is known to the petitioner to have a previous professional relationship with the alleged incapacitated person. The Area Agency on Aging is exempt from the restriction of seeking counsel for the alleged incapacitated person to the extent such practice is required by statute or regulation. If the alleged incapacitated person or non-petitioning next of kin do not obtain counsel for the alleged incapacitated person, the court shall appoint counsel in its discretion upon receipt of the notification required by 20 Pa.C.S.A. § 5511(a).

Rule 14.2B. Evaluation.

If a petition to adjudicate an individual as an incapacitated person is filed with a request that the alleged incapacitated person be directed to submit to an evaluation of his or her capacity, the petitioner shall propose a specific expert to conduct the evaluation. No evaluator shall be proposed without first obtaining the proposed evaluator's consent to serve.

Rule 14.2C. Expert testimony—Interrogatories.

Whenever the issue of incapacity is not contested, the use of verified answers to written interrogatories in lieu of live expert testimony shall be permitted.

Rule 14.2D. Mental Health Commitment Form.

Promptly upon appointment, a court-appointed guardian shall submit a completed Commonwealth of Pennsylvania Notification of Mental Health Commitment (Form SP 4-131) to the court.

Rule 14.2E. Guardian Acknowledgment.

Promptly upon appointment, a court-appointed guardian shall initial, sign and file a Guardian Acknowledgment of Duties and Liabilities form, as follows:

IN RE: : IN THE COURT OF COMMON
: PLEAS
an : OF BERKS COUNTY,
incapacitated : PENNSYLVANIA
person :
: ORPHANS' COURT DIVISION
:
:
: No.

GUARDIAN ACKNOWLEDGMENT OF DUTIES AND LIABILITIES

I, the undersigned court-appointed guardian, acknowledge that as guardian I have broad, but not unlimited, powers, duties, and liabilities as set forth generally in 20 Pa.C.S.A. § 5501 et seq. and more specifically acknowledge my duties and liabilities under 20 Pa.C.S.A. § 5521 and as follows:

As Guardian of the Person, I shall:

- Assert the rights and best interests of my ward.
• Respect to the greatest possible extent my ward's expressed wishes and preferences.
• Where appropriate, develop a plan of supportive services to meet my ward's needs.
• Encourage my ward to participate in all decisions which affect my ward, to act on his or her own behalf whenever he or she is able to do so, and to develop or regain, to the maximum extent possible, capacity to manage his or her personal affairs.

As Guardian of the Estate, I shall:

- Take possession of, maintain, and administer each asset of my ward, and make all reasonable expenditures and efforts to preserve the estate.
• Within three months, file an inventory of my ward's real and personal property and a statement of any property that I expect to acquire thereafter.
In addition to the above duties, as Guardian (either of the person or the estate), I shall:
• Exercise my powers for the benefit of my ward.
• Keep the ward's assets separate from my assets
• Exercise reasonable caution and prudence.
• Keep a full and accurate record of all actions, receipts, and disbursements on behalf of the ward.

- File an annual report on forms available in the Register of Wills/Clerk of the Orphans' Court attesting to the information required by 20 Pa.C.S.A. § 5521(c). I shall file a final report within 60 days of my ward's death or adjudication of capacity.
• Report any change of my address to the court within ten (10) days.



As Guardian of the person and/or the estate, I understand and acknowledge that any breach of my duty to my ward, such as but not limited to asset misappropriation, may result in civil and even criminal liability. \_\_\_\_\_

Date: \_\_\_\_\_ Guardian's Signature: \_\_\_\_\_

**Rule 14.2F. Allowances From an Incapacitated Person's Estate.**

(a) *In General.* Petitions for allowances from an incapacitated person's estate, when necessary, shall be governed by the appropriate provisions of B.C.O.C.R. 5.6A, and as hereinafter provided.

(b) *Contents of Petition.* The petition shall set forth the following:

(1) the name of the guardian, the date of the guardian's appointment, if the petitioner is not the guardian, petitioner's relationship to the incapacitated person, and, if not related, the nature of the petitioner's interest;

(2) a summary of the inventory, the date it was filed and the nature and present value of the estate;

(3) the address and the occupation, if any, of the incapacitated person;

(4) the names and addresses of the incapacitated person's dependents, if any;

(5) a statement of all claims of the incapacitated person's creditors, known to the petitioner;

(6) a statement of the requested distribution and the reasons therefor; and

(7) a statement of all previous distributions allowed by the court.

(c) *Restrictions Governing Allowance.* If any portion of the incapacitated person's estate is received from the United States Veterans Administration or its successor, notice of the request for allowance shall be given to this agency.

**CHAPTER XV. ADOPTIONS**

**Rule 15.4A. Separate Petitions.**

A separate petition shall be filed for each parent whose rights the petitioner seeks to terminate.

**Rule 15.4B. Affidavit of Paternity.**

Except as filed by a county agency or excused by the court, a petition to involuntarily terminate the parental rights of any father to a child shall have appended thereto an affidavit of paternity signed by the child's birth mother that contains the following:

(a) A statement that a specific man, identified by as much of his full name as is known, is the child's biological father. The affidavit shall set forth sufficient facts to support the identification of this man as the father; or

(b) A statement that the identity of the father is unknown to the mother. The affidavit shall set forth the circumstances of conception, the reasons why the father's identity is not known, and what efforts, if any, have been made to identify the father.

**Comment:** Facts supporting identification of the father could include, but not be limited to, the mother's not having had sexual relations with any other man at or around the time of conception (including one month before or after conception) or that a DNA test has established paternity. The reasons why the father's identity might be unknown include, but are not limited to,

mother's having had sexual relations with multiple known or unknown partners, a one night stand, rape, and prostitution.

**Rule 15.4C. Decree.**

The termination of parental rights shall be by decree separate from a decree of adoption.

**Comment:** The name of a parent whose rights have been terminated should not appear in an adoption decree for confidentiality reasons.

**Rule 15.5C. Financial Responsibility.**

An Affidavit of Financial Responsibility, in the following form, shall be attached to all petitions for adoption:

IN RE: : IN THE COURT OF COMMON  
: PLEAS  
ADOPTION OF : OF BERKS COUNTY,  
: PENNSYLVANIA  
: ORPHANS' COURT DIVISION  
:  
: No.

**AFFIDAVIT OF FINANCIAL RESPONSIBILITY**

I, \_\_\_\_\_, the person petitioning to adopt the above-named child, acknowledge that if the adoption is approved by the court I will have the duty, just as any other parent, to support the child financially. I acknowledge that this duty of support is absolute and may extend beyond the child's eighteenth (18th) birthday in accordance with 23 Pa.C.S.A. § 4321. I acknowledge that I will owe this duty of support even if my relationship with the child's other parent ends, regardless of which parent has physical custody of the child, and I may need to make sacrifices to meet this burden. I further acknowledge the possible responsibility to contribute to the college education of my child, provided that the child has the ability and desire to successfully complete the course of studies, and in accordance with 23 Pa.C.S.A. § 4327.

As evidenced by my signature below, I accept my acknowledged parental duty of financial support for the above-named child.

Date: \_\_\_\_\_ Adoptive Parent

**Rule 15.6A. Waiver of Notice.**

Any person entitled to notice of a hearing under Pa.O.C. Rule 15.6 may execute a waiver of such notice. The waiver shall not be irrevocable and shall state that it can be revoked at any time prior to the hearing by filing a revocation with the Clerk.

**Rule 15.10A. Agreements for Post-Adoption Contact.**

Whenever a request for court approval of a voluntary agreement for continuing contact, or modification or termination thereof, under Subchapter D of the Adoption Act is filed and the child(ren) subject to the agreement is or was represented by a guardian ad litem in a dependency or termination of parental rights proceeding, the party filing the request for approval shall immediately serve notice of the filing on the guardian ad litem. If a voluntary agreement for continuing contact is proposed for the first time at the time of an adoption hearing and a previously appointed guardian ad litem is not present for the hearing, the matter shall be continued to allow notice to the guardian.

[Pa.B. Doc. No. 16-1292. Filed for public inspection July 29, 2016, 9:00 a.m.]



## BUCKS COUNTY

**Order Rescinding Orphans' Court Rules 1.2A through 13.3A and Orphans' Court Rule 17.1A and Promulgating Orphans' Court Rules 1.1A through 10.4A****Order**

*And Now*, this 19th day of July, 2016, pursuant to Pennsylvania Orphans' Court Rule 1.5, the Bucks County Orphans' Court Rules 1.2A through 13.3A and Bucks County Orphans' Court Rule 17.1A are hereby vacated and replaced by Bucks County Orphans' Court Rules 1.1A through 10.4A.

These rules shall take effect on September 1, 2016, after publication in the *Pennsylvania Bulletin*.

*By the Court*

JEFFREY L. FINLEY,  
*President Judge*

**Rule 1.1A. Short Title and Citation.**

These rules shall be known as Bucks County Orphans' Court Rules and shall be cited as Bucks County Orphans' Court Rule \_\_\_\_\_.

**Rule 1.5A. Local Rules.**

In all cases where there are no separate Pennsylvania Orphans' Court Rules or Bucks County Orphans' Court Rules, the Rules applicable to the Civil Division of the Court of Common Pleas of Bucks County, including the Pennsylvania Rules of Civil Procedure, where applicable, shall apply.

**Rule 1.6A. Mediation by Agreement, Local Rule, or Court Order.**

When the parties agree to mediation, or it is ordered by the court, the mediation shall be conducted by a mediator chosen from the list of certified mediators maintained by the clerk, unless otherwise agreed to by the parties. All proceedings by the court shall be stayed until the conclusion of the mediation.

**Rule 1.7A. Entry and Withdrawal of Counsel.***1. Appearance*

Every attorney in any proceeding shall enter their appearance in writing, noting thereon the date on which entered, or by endorsement on papers filed, and shall not withdraw the same without leave of court. The attorneys' State Identification Number shall be included under their signature on all papers filed. The filing of papers by an attorney shall be an entry of appearance.

*2. Attorneys Not Eligible to Practice*

The following persons shall not practice as an attorney before this court: the clerk of this court; the Orphans' Court administrator; any law clerk of this court; the Register of Wills and the Sheriff of this county; the official stenographer; and persons otherwise prohibited, their assistants, deputies and clerks.

**Rule 1.9A. Holidays and Emergencies.**

If an audit of account, a return day or any time fixed for performing any judicial or clerical function falls on a holiday, a Saturday, a Sunday, or on a day when circumstances result in an unforeseen or unexpected cessation of courthouse function, the next following day, not a holiday, a Saturday, or a Sunday shall be the day for the audit of

account, the return day, or the time for the performance of the judicial or clerical function, unless otherwise provided by these Rules.

**ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS****Rule 2.1A. Sessions of Court.**

The court will sit in stated session on the first Monday of every month for the presentation for audit of accounts and such other business as may properly come before the court.

**Rule 2.4A. Additional Receipts and Disbursements.**

Receipts and disbursements received or made after filing the account and petition for adjudication/statement of proposed distribution may be accounted for in a supplemental account, which shall be signed and verified by the accountant(s) and filed with the clerk, with notice in the same manner as required by Pa.O.C. Rule 2.5(a)—(g) with respect to an account. A copy of the supplemental account shall be presented to the court at the audit.

**Rule 2.6A. Filing with the Clerk.***1. Filing For a Particular Audit*

Accounts to appear on a particular audit list must be filed not later than the fifth Wednesday preceding the session of court when that audit list will be called, except when that Wednesday falls on a holiday in which event accounts must be filed not later than the next preceding non-holiday.

*2. When Audit List To Be Called*

The audit list will be called, and accounts thereon will be audited, unless another date therefor be specially fixed, on the first Monday of every month of the year, unless such first Monday falls on a holiday or on a day when circumstances result in an unforeseen or unexpected cessation of courthouse function, in which event said audit list will be called and accounts thereon audited on the next following day not a holiday, or when courthouse functions have resumed in compliance with Bucks County Orphans' Court Rule 1.9A. Each audit list shall include accounts continued from previous audit lists and new accounts eligible for audit.

*3. Appearances*

At the call of the monthly audit list, counsel for the accountant (or associated counsel authorized and prepared to act as such on behalf of the accountant), as well as counsel for any other party or interested parties who desire to be heard (or accountant or other party or parties, in interest in propria persona if not represented by counsel), shall be personally present in open court and shall note their appearance and such other matters as may be appropriate upon appearance slips to be filed with the court at that time.

**Rule 2.7A. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.**

When objections to an account have been filed, the account of that estate will be presented for audit at the stated meeting of court at which the account is called for audit, but the merits of the objections will not then be heard. A pretrial conference pursuant to Bucks County Orphans' Court Rule 7.1B will be scheduled, and thereafter a time for a hearing thereon will be fixed by the court.

**Rule 2.9A. Confirmation of Accounts; Awards.****1. Filing**

The court in the adjudication, when requested or found advisable, or in any case when real estate is to be awarded in kind, may direct the accountant to file a schedule of distribution in conformity with the awards of the adjudication. Attached to such schedule when filed shall be a certification by the accountant and counsel for the accountant:

a. that the schedule is correct and in accordance with the adjudication;

b. that notice of the filing thereof has been duly given, or that the same is unnecessary by reason of a written approval of the schedule filed therewith by all interested parties affected thereby or by counsel of record.

**2. Notice**

Notice of the filing of a schedule of distribution shall be given in writing, together with a copy of the schedule, prior to the filing thereof, to all interested parties who may be affected thereby, or their counsel of record, who do not attach or file their written approval with the schedule. Proof of notice shall be filed with the clerk.

**3. Objections**

Written objections to a schedule of distribution may be filed within 10 days after the filing of the schedule and shall indicate in what respect the schedule is incorrect or fails to conform to the adjudication. The filing of objections shall be accompanied by a form of Order for Hearing and a certificate of service.

**4. No Filed Objections**

If no objections to the schedule of distribution are filed within 10 days after its filing, the accountant shall file a motion with the court requesting confirmation of the schedule of distribution. Upon issuance of a decree of confirmation from the court, the accountant shall have authority to make any necessary assignments, and transfers of securities or other assets awarded in kind, and the schedule of distribution shall be deemed and considered as attached to and constituting a part of the adjudication.

**Rule 2.10A. Foreign Heirs and Unknown Distributees.**

The report contemplated by Pennsylvania Orphans' Court Rule 2.10(b) shall be submitted as an exhibit to the petition for adjudication and shall include substantially the following:

**1. Unknown Distributee**

If it appears that the identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit a written report as an exhibit to the petition for adjudication, verified by the fiduciary or their counsel, which shall set forth:

a. the nature of the investigation made to locate the heirs of the decedent, in complete detail; and

b. in cases of intestacy, or where there are no known heirs, a family tree, as complete as possible under the circumstances supported by such documentary evidence as the fiduciary has been able to obtain.

The term "investigation" as used in this Rule shall include an inquiry of or to as many of the following as may be pertinent and feasible: residents of the household in which the decedent resided; friends and neighbors; labor union membership; places of employment; social, fraternal or beneficial organizations; insurance records;

religious membership; school records; Social Security, Veterans' Administration, or military service records; naturalization records, if not native born; and such other sources of information as the circumstances may suggest.

**2. Foreign Distributee**

If the fiduciary requests the court to withhold distribution to a foreign distributee, they shall submit as an exhibit to the petition for adjudication a written report, verified by the fiduciary or their counsel, in which shall be set forth:

a. the relationship of the distributee to the decedent, and any available information concerning their present whereabouts;

b. in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and

c. the reasons for the request that distribution be withheld, and the suggested manner of withholding.

**3. Foreign Distributee. Notice to Attorney General**

When at the audit of an account or other proceeding in any estate in this court, it appears that any distributee is not a resident of the United States and that distribution to them might or should be withheld, notice of all of the facts and circumstances shall be given to the Attorney General who will be requested to participate in the proceedings as amicus curiae.

**Rule 2.11A. Appointment of Official Examiners.****1. Appointment**

Whenever an examination of assets is ordered in connection with an accounting, the order of appointment shall be included in the adjudication of the account, and the examiner shall make his examination after the schedule of distribution shall have been filed and approved, so that the assets distributable by fiduciaries, which are the assets to be examined, will have been determined.

**2. Reports and Fees**

Reports of examiners shall be filed with the clerk. The examiner's fee shall be fixed and awarded by the court when acting on the report, usually payable out of the assets examined, unless circumstances warrant otherwise.

**PETITION PRACTICE AND PLEADING****Rule 3.1A. Petitions Generally.**

Petitions and applications requiring action by the court shall be filed with the clerk. The clerk shall enter on the document the date and time filed and shall assign to each new matter a file number. The file number and the name of the matter shall be included in the caption of all papers filed in court or in the clerk's office.

**Rule 3.5A. Mode of Proceeding on Petition.**

The procedures set forth in Bucks County Rule of Civil Procedure 206.4(c), relating to the mode of proceeding on rules to show cause, are applicable in the Orphans' Court Division.

This applies in situations where personal jurisdiction has already been established through citation practice and a citation is not required by Pennsylvania Orphans' Court Rules or Pennsylvania Statutes.

**Rule 3.7A. Time for Filing and Service of Responsive Pleadings.**

If a responsive pleading is filed which raises disputed issues of material fact, any party may, thereafter, file a motion for hearing to determine the disputed factual issues. If a responsive pleading is filed which raises only questions of law, the parties shall follow the procedures set forth in Bucks County Rule of Civil Procedure 208.3(b).

**Rule 3.9A. Preliminary Objections.**

Preliminary objections shall be moved for disposition pursuant to Bucks County Rule of Civil Procedure 208.3(b).

**FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT; ELECTRONIC FILING****Rule 4.2A. Citation or Notice to Individuals and Entities.**

1. The *Bucks County Law Reporter* is hereby designated as the legal newspaper and periodical for the publication of legal advertisements and notices required by law, rule, order or decree of court.

2. Every notice or advertisement required by law, rule, order or decree of court in one or more newspapers of general circulation, unless dispensed with by special order of the court, shall also be published in the *Bucks County Law Reporter*.

**Rule 4.7A. Electronic Filing.**

(a)(1) Any legal paper permitted to be filed under the Pennsylvania Orphans' Court Rules may be filed electronically under the procedures set forth in this rule.

(b)(1) All legal papers to be electronically filed shall be presented in portable document format (".pdf").

(b)(2) Legal papers may be submitted to the clerk in a hard copy format. In that event, the clerk shall electronically scan such legal paper into .pdf format and maintain it in that format. Any documents scanned into .pdf format may be returned to the filing party for maintenance pursuant to Pa.O.C. Rule 4.7(c)(3).

(c)(1) All legal papers that are filed electronically shall be filed through the clerk's Electronic Filing System ("Electronic Filing System"). General access to the Electronic Filing System shall be provided through a link to the Orphans' Court appearing on the County of Bucks website at [www.buckscounty.org](http://www.buckscounty.org).

(c)(2) Parties who are not attorneys shall register with the Electronic Filing System in order to file legal papers electronically. Registrants shall provide the name, mailing address, e-mail address, phone number, and other identifying information as required by the clerk.

(d)(1) The clerk shall accept credit and debit cards for payment of all filing fees and shall take reasonable steps to ensure payment.

(e) (Reserved)

(f)(1) Upon receipt of an electronically filed legal paper, the clerk shall provide the filing party with an acknowledgement, which includes the date and time the legal paper was received by the Electronic Filing System. The clerk shall also provide the filing party with notice that the legal paper was accepted for filing. If the legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the clerk shall immediately notify the party presenting the legal paper for filing the date of presentation, the fact that the

document was not accepted or refused for filing by the system, and the reason therefor. All acknowledgements and notices under this subsection will be sent to the e-mail address provided by the filing party.

(f)(2) The clerk shall maintain an electronic copy of all legal papers filed.

Final written approval for implementation of the Electronic Filing System as described within Bucks County Orphans' Court Rule 4.7A shall be issued by the court.

**RULES GOVERNING SPECIFIC TYPES OF PETITIONS****Rule 5.4A. Revocation, Vacating or Extension of Time for Filing of Surviving Spouse's Election.**

A petition for the extension of the time in which the surviving spouse may file an election to take against the will shall be presented to the court within the required statutory period after the probate of the will as required by Pennsylvania Orphans' Court Rule 5.4(b). The petition shall set forth the following additional matters:

1. the facts relied upon to justify the extension of time requested and the period of extension desired;

2. the names of the interested parties who have consented to the extension of time as evidenced by their joinder in the petition.

**Rule 5.6A. Appointment of a Guardian for the Estate or Person of a Minor.**

In lieu of the entry of bond, the court in appropriate cases may authorize the guardian to deposit the funds of the minor in an interest-bearing federally insured savings account, certificate of deposit or credit union account or an account investing only in securities guaranteed by the United States government or a Federal governmental agency managed by responsible financial institutions. The account(s) shall be marked "not to be withdrawn until the minor reaches the age of eighteen (18) years, except for the payment of local, state and federal income taxes on earnings of the certificate or account or upon further order of the court." Evidence of the deposit or investment marked to indicate the restriction, shall be promptly filed with the clerk.

**Rule 5.6B. Minor's Estate, Allowances.**

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

1. the manner of the guardian's appointment and qualification, the dates thereof;

2. the age and residence of the minor, whether his or her parents are living, the name of the person with whom they reside, the name and age of their spouse and children, if any;

3. the value of the minor's estate, real and personal, and net annual income; and receipts from other sources, e.g., Social Security;

4. the circumstances of the minor, whether employed or attending school; if the minor's parents, or other persons charged with the duty of supporting them are living, the financial condition and income of such person and why they cannot, or should not be required to pay the expenses forming the occasion for the requested allowance under their duty to support the minor; and whether there is adequate provision for the support and education of the minor, his or her spouse and children;

5. the date and amount of any previous allowance by the court; and



6. the financial requirements of the minor and his or her family unit, in detail, and the circumstances making such allowance necessary.

**Rule 5.8A. Discharge of Fiduciary and Surety.**

1. *Additional Avertments*

If the written consent of the surety is not attached as an exhibit, the petition shall aver that notice has been given to the surety, if any, of the date of the intended application for discharge. The petition shall also expressly state whether both the fiduciary and surety or the surety alone is to be discharged.

2. *Exhibits*

The petition shall have attached thereto a copy of the schedule of distribution as confirmed, if one has been filed, and original releases or satisfactions of award from the distributees showing full payment of their distributive shares. If such original releases or satisfactions of award have been filed with the clerk, copies may be attached

**Rule 5.10A. Public Sale of Real Estate.**

1. *Personal Representative*

When it is required that a personal representative petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall also set forth in separate paragraphs, the following:

(a) the name or other designation of the estate; the date of death; whether the decedent died testate or intestate; date of grant of letters; if a decedent's estate, or testamentary trust, or the date and manner of creation, if another type of fiduciary estate. If the petitioner is other than the fiduciary, include the particulars of the fiduciary required herein, and set forth facts sufficient to satisfy the court of the propriety of entertaining the petition by a petitioner other than the fiduciary;

(b) set forth the reason why the personal representative is not otherwise authorized to sell under the Probate, Estates and Fiduciaries Code; or is not authorized or is denied the power to do so by the will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor;

(c) the total value of the personal estate for which they are accountable, as shown in the inventory filed and the inheritance tax appraisal made, if any, and also a statement of the total proceeds of any real estate previously sold or otherwise disposed of;

(d) if the fiduciary has been required to give bond or if additional security may be required, waived or requested, a statement of the amount of the bond or bonds filed by them, if any, and the names of the sureties thereon;

(e) the names and relationships of all interested parties; a brief description of the respective interests; whether any of them are minors, incapacitated persons or deceased, and if so the names of their fiduciaries, if any;

(f) the nature and amount of liens or other claims or charges which are not liens;

(g) whether or not there is any known objection by any party in interest to the grant of relief requested;

(h) a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;

(i) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate; and

(j) an appropriate request for relief, together with a form of order or decree in accordance therewith.

2. *Trustee*

When it is required that a trustee petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall also set forth in separate paragraphs, the following:

(a) the name and capacity of the trustee, together with the date and manner of their appointment; how title was acquired, stating the date and place of probate of the will, schedule of distribution, or recording of the deed;

(b) a recital of the relevant provisions of the will or deed pertaining to the real property to be sold or of the history of the trust (references to specific paragraphs or pages of the exhibit may be incorporated by reference rather than recite in detail the appropriate section of the document);

(c) the names and relationships of all interested parties; a brief description of their respective interests; whether any of them are minors, incapacitated persons or deceased, and if so, the names of their fiduciaries if any;

(d) the nature and amount of liens or other claims or charges which are not liens;

(e) whether or not there is any objection by any party in interest to the grant of relief requested;

(f) a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;

(g) the total value of the personal estate for which they are accountable as shown, for example, in the inventory filed (by the will, deed, or schedule of distribution); a statement of the total proceeds of any real estate previously sold or otherwise disposed of;

(h) that the trustee is not authorized to sell under the Probate, Estates and Fiduciaries Code, or is denied the power by the trust instrument; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor;

(i) sufficient facts to enable the court to determine that the proposed sale is for the best interest of the trust; and

(j) an appropriate request for relief together with a form of order or decree in accordance therewith.

3. *Guardian*

When it is required that a guardian petition the court to sell real property at public sale, the petition, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.10, shall set forth in separate paragraphs, the following:

(a) name, date, fiduciary designation and manner of appointment of the guardian. If the petitioner not be the guardian, include the particulars relating to the guardian mentioned above as to the propriety of the court's entertaining the petition and the granting of relief to the petitioner, rather than to the guardian;

(b) the age of the ward and date of birth;

(c) the names of their next of kin and that notice has been given them of the presentation of the petition; when



there are no known next of kin who are sui juris to whom notice may be given, public notice may be required as the court shall by special order in each case designate, if appropriate;

(d) how title was acquired, stating the date and place of probate of the will, the schedule of distribution or recording of the deed; together with a recital of the provisions of the will, schedule of distribution or deed relating to the real estate to be sold;

(e) the nature and extent of the interest of the ward, and of other persons, in the real property, whether any of them are minors, incapacitated persons or deceased and, if so, the names of their fiduciaries, if any;

(f) whether or not there is any objection by any party in interest to the grant of the relief requested;

(g) a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;

(h) that the guardian is not otherwise authorized to sell under the Probate, Estates and Fiduciaries Code, or is denied the power by the instrument appointing them; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons thereof.

(i) sufficient facts to enable the court to determine that the proposed sale will be for the best interest of the ward; and

(j) an appropriate request for relief together with a form of order or decree in accordance therewith.

#### **Rule 5.10B. Joinder and Consent.**

The court may act upon such applications forthwith and ex parte if all interested parties join therein or if the court is satisfied that the interests of all parties would be served and protected thereby, or may require notice thereof by citation or otherwise, to be served upon all interested parties before action thereon in such particular cases as it shall, by special order, direct.

#### **Rule 5.10C. Procedure for Public Sale. Security.**

Upon the entry of an order authorizing a public sale of real estate pursuant to application by any fiduciary subject to the jurisdiction thereof, the court shall also fix the return day therefor. Such sale shall be advertised in such manner, in such newspapers or other media, and for such length of time as shall be required by law and deemed necessary and proper reasonably and practically to obtain the best price possible under all the circumstances, but in any event public notice of such sale shall be advertised at least once a week for three successive weeks in the *Bucks County Law Reporter* and in one other newspaper of general circulation in the county prior to the sale, and shall be conspicuously posted on the subject real estate. Notice thereof shall also be given to all interested parties at least 20 days before the sale by personal service or by certified mail to their last known address, unless the same shall have been waived in writing or the court, for cause shown, shall dispense therewith.

On or before the return day, a sworn written return of said sale shall be filed with the clerk setting forth the relevant facts concerning the sale and attaching a copy of the agreement resulting therefrom and due proofs of publication and service of other required notices.

#### **Rule 5.10D. Public Sale. Exhibits.**

The following exhibits shall be attached to a petition by a personal representative, trustee or guardian to sell real property at public sale:

1. a copy of the will, deed, or decree by which the fiduciary was appointed;

2. any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;

3. consent by any mortgagee whose lien would otherwise not be discharged by the sale;

4. agreement of sale;

5. a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested; and

6. any other instrument which may be material to the application for public sale.

#### **Rule 5.11A. Private Sale of Real Property or Options Therefor.**

When a personal representative, trustee or guardian requires court approval for a private sale, exchange or option of real estate, in addition to the requirements of Pennsylvania Orphans' Court Rule 5.11, a petition for approval shall comply with requirements of Bucks County Orphans' Court Rules 5.10 A, B and D.

#### **Rule 5.11B. Petition to Fix or Waive Additional Security. Personal Representative. Other Fiduciary.**

##### *1. Form of Petition*

In a sale of real estate, whether public or private, by a personal representative, or by other fiduciary, without benefit of an order of court directing or authorizing such sale, where they were required to give bond as such personal representative or other fiduciary, they shall present their petition to the court before the proceeds of the sale are paid to them by the purchaser. The petitioner shall comply with Bucks County Orphans' Court Rules 5.10A and B, as applicable, and, in addition shall:

a. attach exhibits required by Bucks County Rule 5.10;

b. attach a full legal description of the subject real estate, together with a recital of the title thereof sufficient to explain the nature and quantum of all interests therein which will or may be affected by the relief requested;

c. include a prayer for an order fixing the amount of additional security or for an order excusing them from filing additional security, as the case may be; and

d. attach an appropriate form of order or decree.

##### *2. Surety on Additional Bond*

The surety on any additional bond, except for cause shown, shall be the same as on the original bond. All bonds for additional security shall be filed with the clerk.

#### **Rule 5.12A. Mortgage or Lease of Real Property.**

##### *1. Contents of Petition*

A petition to mortgage or lease real property by a personal representative, trustee or guardian, shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale; shall set forth the amount and terms of the proposed mortgage loan or terms of lease; and shall set forth sufficient facts to enable the court to determine whether the proposed mortgage or lease should be approved.

### 2. Exhibits

The following exhibits shall be attached to the petition:

- a. a copy of the will, deed, or decree by which the fiduciary was appointed;
- b. any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join; and
- c. other relevant documents—such as mortgage commitment.

### 3. Security

The amount of the bond or additional security required to be entered, or the waiver thereof, will be determined by the court in its decree approving the proposed mortgage or lease.

### 4. Surety

When an order of the court shall require the entry of additional security, the surety thereon, except for cause shown, shall be the same as on the original bond. All bonds for additional security shall be filed with the clerk.

### Rule 5.16A. Petition to Settle Wrongful Death and Survival Actions.

For information regarding Petition to Settle Wrongful Death and Survival Actions see Bucks County Rule of Civil Procedure 2205\*(a)—(b).

### Rule 5.17A. Petition for Leave to Compromise Minor's Action.

For information regarding Petition for Leave to Compromise Minor's Action see Bucks County Rule of Civil Procedure 2039(a)\*(1).

## RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

### Rule 7.1A. Practice as to Depositions, Discovery, Production of Documents and Perpetuation of Testimony.

1. Leave to take depositions, or to perpetuate testimony, or obtain discovery or the production of documents, may be granted only on petition upon cause shown except upon agreement of counsel.

2. Upon court approval under paragraph 1 of this Rule, discovery shall be governed by Pennsylvania and Bucks County Rules of Civil Procedure.

### Rule 7.1B. Pretrial Conference.

In any proceeding, the court, of its own motion or on motion of any party, may direct attorneys for the parties to appear for a conference to consider:

1. the simplification of the issues;
2. the necessity or desirability of amendments to the pleadings;
3. the possibility of obtaining admissions of fact and of documents which avoid unnecessary proof;
4. such other matters as may aid in the disposition of the action.

The court may enter an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

### Rule 7.2A. Motion for Judgment on the Pleadings.

A motion for judgment on the pleadings shall be moved for disposition pursuant to Bucks County Rule of Civil Procedure 208.3(b).

### Rule 7.3A. Motion for Summary Judgment.

A motion for summary judgment shall be moved for disposition pursuant to Bucks County Rule of Civil Procedure 208.3(b).

## RECONSIDERATION

### Rule 8.2A. Motions for Reconsideration.

Upon the filing of a motion for reconsideration, notice shall be provided to the court by simultaneously forwarding a copy of said motion to judge's chambers.

## AUDITORS AND MASTERS

### Rule 9.1A. Notice of Hearings.

Auditors or masters shall give at least 10 days notice of a scheduled hearing by personal service or by mail to all interested parties of record or to their counsel of record.

### Rule 9.2A. Filing of Report.

All auditors' or masters' reports shall be filed with the clerk.

### Rule 9.5A. Transcript of Testimony.

In all hearings before auditors or masters, the testimony may be taken by the court stenographer at the expense of the county. Any party desiring a copy may order the same at their own expense; provided, however, that if the stenographer makes an additional charge for taking the testimony by reason of the hearing being held away from the county seat, the additional charge therefor shall be paid by the party or interested parties responsible for the hearing away from the county seat as may be determined by the auditor or master, or the auditor or master may include such additional charge as part of the costs, to be paid as directed with regard to the other costs; but in no event shall such additional charge be paid by the county.

### Rule 9.6A. Notice of Filing Report.

Auditors or masters shall on or before the day of filing their reports give notice of the filing of the same personally or by mail to all interested parties of record or to their counsel of record. Proof of notice shall be attached to the report. All auditors' or masters' reports shall be filed with the clerk.

### Rule 9.7A. Confirmation of Report.

If no objections are filed within 10 days of the filing thereof, the court may enter a decree confirming the auditor's report or adopting the master's report, unless the court is of the opinion that error has been made. The court may correct minor errors or deficiencies or refuse to enter a decree.

## REGISTER OF WILLS

### Rule 10.4A. Appeals from the Register of Wills.

1. Appeals from the judicial acts or proceedings of the Register shall bear the caption of this court, and shall be filed with the clerk. A notice of appeal shall be filed concurrently with the Register.

2. The appeal shall be in the form of a petition, setting forth the nature of the proceedings before the Register, the basis for the appeal, the names and addresses of all interested parties and the necessary jurisdictional facts together with a preliminary decree and citation.

3. If the petition sets forth a prima facie case, the court will award a citation directed to all interested parties to show cause why the appeal should not be sustained and the act or decision of the Register set aside.

4. The Register shall certify its record to the clerk, in due course.

[Pa.B. Doc. No. 16-1293. Filed for public inspection July 29, 2016, 9:00 a.m.]

## CHESTER COUNTY

### Adoption of Orphans' Court Local Rules

#### Order

And Now, this 13th day of July, 2016, the following Chester County Orphans' Court Rules are hereby adopted in their entirety, effective September 1, 2016.

By the Court

THE HONORABLE JACQUELINE CARROLL CODY,  
*President Judge*

THE HONORABLE JOHN L. HALL,  
*Chester County Orphans' Court Rules Committee  
Chairperson*

### CHESTER COUNTY COURT OF COMMON PLEAS ORPHANS' COURT RULES<sup>1</sup>

#### Chapter I. Preliminary Rules

##### Rule L1.1A. Short Title.

These Rules shall be known as Chester County Orphans' Court Rules and shall be referred to individually and cited as "Ches.Co.O.C. Rule \_\_\_\_."

##### Rule L1.2A. Trust Inter Vivos.

The original trust instrument and any amendments thereto, shall be filed with the Clerk when the Court is first required to exercise its jurisdiction over the inter vivos trust. The instrument shall be indexed and recorded by the Clerk. Any revocation shall be likewise filed, indexed and recorded. The rules of Court applicable to testamentary trusts shall apply to trusts inter vivos as far as appropriate. In the event such instrument has been filed with another court, a certified copy thereof will be accepted in lieu of the original. All original instruments lodged with the Clerk shall be scanned (or otherwise electronically stored) and then returned.

##### Rule L1.2B. Sureties.

(1) *Individual Sureties.* Individuals proposed as sureties on bonds of fiduciaries shall take an affidavit setting forth the facts as required thereby. Such affidavit shall be filed together with the bond when filed, and shall be renewed annually thereafter so long as the bond shall remain in effect. A member of the Bar or any employee of the Court shall not act as surety in any proceeding in this Court, except by special leave of Court.

(2) *Corporate Sureties.* Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in

<sup>1</sup> Most of these rules and all of the chapters are numbered to correspond to the applicable Pennsylvania Orphans' Court Rules and Chapters. Certain Chapters described in the Pennsylvania Orphans' Court Rules do not have a corresponding chapter in this publication because there are no local rules pertaining to them.

Those using these rules are encouraged to check the Clerk's website ([www.chesco.org/wills](http://www.chesco.org/wills)) for state forms and information pertaining to certain matters described herein.

For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

this Court provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk. No bond shall be executed by any surety company until such a certificate is filed with the Clerk.

##### Rule L1.2C. Corporate Fiduciaries.

(1) Corporations having fiduciary powers and authorized to do business in Pennsylvania may act as fiduciaries in matters pending in this Court if a copy of a currently effective certificate issued by the Pennsylvania Banking Department, the Comptroller of Currency, or the Federal Reserve Board, as the case may be, evidencing its right to exercise fiduciary powers, certified to be true and correct by an executive officer of the corporation, is filed with the Clerk.

(2) Except where required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

##### Rule L1.2D. Committee on Rules.

(1) Whenever the Court deems it necessary, it shall appoint a rules committee for the Orphans' Court of Chester County, which shall consist of at least six (6) attorneys who are members of the Chester County Bar Association, the Orphans' Court Administrator, the Clerk of the Orphans' Court, and any other person(s) designated by the Court. The committee shall serve at the pleasure of the Court.

(2) It shall be the duty of said rules committee to inform themselves as to legislation, procedural rules promulgated by the Pennsylvania Supreme Court, and decisions of the courts affecting the existing local Orphans' Court rules and, from time to time, to suggest to the Court such rule modifications or additions to these local rules as in its judgment, or the judgment of the majority thereof, may be advisable.

##### Rule L1.2E. Reproduction of Papers.

All pleadings and papers filed with either the Register or the Clerk shall be legible. Should any such pleading or paper not be sufficiently legible for mechanical reproduction, the Register or the Clerk may refuse to receive such pleading or paper or may require that a legible copy thereof be submitted.

##### Rule L1.3A. Definitions.

(1) "Code" means the Probate, Estates, and Fiduciaries Code (20 Pa.C.S. § 101 et seq.), as amended.

(2) "Schedule of Distribution" is a document filed with the Clerk, if required by the Court in an adjudication, which describes the final distribution of estate assets.

##### Rule L1.6. Mediation by Agreement or Court Order.

The Chester County Orphans' Court Mediation Program ("Mediation Program") utilizes Court approved attorneys who have been trained as Orphans' Court mediators.<sup>2</sup> All attorneys representing parties in Orphans' Court, and all unrepresented parties, are required hereby to make a good faith effort to consider utilizing the Mediation Program, or mediation through another program/person, before litigating any non-emergency matter in Court. All such attorneys shall discuss mediation with their clients at the beginning of their representation, and estimate the legal costs and likely duration of Court

<sup>2</sup> Mediation is intended to provide participants with an opportunity to achieve a prompt, fair, and confidential resolution of a matter in dispute. Mediation allows sensitive matters to be privately discussed and finally resolved, without resort to public hearings. It also avoids costly pre-hearing litigation, hearings and appeals.



proceedings/appeals if mediation is not used. Information regarding the Mediation Program may be obtained from the Chester County Orphans' Court Administrator (address: 201 W. Market St., P.O. Box 2746, West Chester, PA 19380-0989; telephone: 610-344-6454) or the Clerk. For anticipated complex or lengthy litigation, the Court may order the parties to use the Mediation Program.

## **Chapter II. Accounts, Objections and Distributions<sup>3</sup>**

### **Rule L2.1A. Accounts & Distribution.**

Accountants preparing accounts are encouraged to review the accounts and schedule of distribution checklists available at the office of the Clerk and on its website at [www.chesco.org/wills](http://www.chesco.org/wills) in order to include all information required by the Pennsylvania Orphans' Court Rules.

#### **Rule L2.5A.(d)(1). Audits.**

*Call of the Audit List.* Unless scheduled differently by the Court, the audit list will be called by the Court on the first Wednesday of every month. There will be no call of the audit list in January and July. Each audit list shall include continued accounts and new accounts eligible for audit. No attorney need be present unless an attorney desires to file written objections or a claim in Court at the call of the audit list.

#### **Rule L2.6A. Filing with the Clerk.**

*For a Particular Audit List.* Accounts to appear on a particular audit list must be filed not later than thirty (30) days preceding the session of Court when the audit list will be called.

#### **Rule L2.9A.(c). Schedule of Distribution.**

(1) *Filing.* The adjudication of an account, when it appears advisable or when requested, will direct the attorney for accountant to prepare and file a schedule of distribution. The schedule shall be signed by all accountant(s) and certified by the attorney for the accountant(s) to be correct and in conformity with the adjudication. The schedule shall then be filed with the Clerk.

(2) *Additional Receipts and Disbursements.* Receipts and disbursements subsequent to the date the account was stated shall be set forth in the schedule of distribution.

(3) *Objections.* Objections to an unconfirmed schedule of distribution shall be filed with the Clerk and must be filed not later than the twentieth (20th) day after the schedule was filed. Such objection may raise questions relating only to the schedule. In no event shall such objection raise questions which were or could have been raised previously by claims or objections to the account.

(4) *Confirmation.* If no objections are filed within twenty (20) days after the filing of the schedule, it will be approved. Schedules agreed to by all parties in interest may be approved prior to twenty (20) days after filing. After approval, the accountant shall have authority to make necessary assignments and transfers of any securities awarded in kind.

(5) *Notice.* Notice of filing the schedule of distribution is to be given in accordance with the Pennsylvania Orphans' Court Rules.

#### **Rule L2.9B. Distribution of Real Estate.**

(1) *When No Partition or Allotment Required or When Distributees Agree to Schedule.* Schedules of distribution shall include separate awards of real estate to the parties

entitled thereto, whether individually, or, where the circumstances require, in undivided interests. The real estate so awarded shall be identified by reference to the adjudication in the same detail and with the same particularity as is commonly required to be included in deeds and shall recite how the title was acquired by decedent. A copy of the last recorded deed(s), certified by the Recorder of Deeds, shall also be included.

(2) *Partition or Allotment of Real Estate Requested by Accountant or an Interested Party.* When partition or allotment of real estate is requested by the accountant or an interested party, the request shall be made prior to or at the audit. The Court may include in any order granting such a request, a direction to submit an information certificate issued by an attorney or a responsible title insurance company showing the current state of the title, provisions for owelty, if any, the preparation of a schedule of distribution, notice to the parties, and fixing the dates of further hearings, as may be necessary to protect all interested parties.

(3) *Certificate of Award of Real Estate.* A certificate of award of real estate shall be prepared by the attorney for the accountant and submitted to the Clerk for execution upon confirmation of the schedule of distribution.

## **Chapter III. Petition Practice and Pleadings.<sup>4</sup>**

### **Rule L3.1A. Pleadings Generally.**

(1) *Typing and Endorsement.* Every petition, motion, answer, reply or other pleading/filing shall be typewritten or printed, and shall be endorsed on the front upper left-hand corner with the name, address, zip code, telephone number, facsimile number, email address, and identification number of the individual attorney representing the party filing the pleading or of the party if proceeding pro se.

(2) *Courtesy Copies Not to be Sent to the Court.* Parties shall not send courtesy copies of pleadings/filings to the Court without the specific request of the Court for same.

#### **Rule L3.4A. Additional Petition Requirements.**

*Preliminary Decree.* A petition shall be accompanied by a separate preliminary decree for the Court's use either setting a hearing date in those instances where jurisdiction has been established or issuing a citation returnable with a hearing date where jurisdiction has not yet been established.

## **Chapter IV. Format and Service of Legal Paper by Parties and Court; Electronic Filing.**

### **Rule L4.2A. Citation or Notice by Publication.**

The *Chester County Law Reporter* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, the Pennsylvania Rules of Civil Procedure, the Chester County Orphans' Court Rules, order of Court, or otherwise.

#### **Rule L4.2B. Proof of Service of Citation or Notice.**

(1) *Certificate of Service.* A certificate of service shall be filed setting forth each document served, the date of service, and the manner of service (personal, registered or certified mail, or publication).

(a) *Personal Service.* If service is made by personal service, the certificate of service shall also set forth the

<sup>3</sup> For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

<sup>4</sup> For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.



time of service, place of service, and that a true and correct copy of the written notice was handed to the person served.

(b) *Registered or Certified Mail.* If service is made by registered or certified mail, the certificate of service shall state the date and place of mailing and include as an attachment the return receipt or a photostatic copy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, the person giving notice shall so state on the certificate of service. When the address of the person given notice by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

**Rule L4.3A. Publication of Legal Papers other than Citations or Notices.**

The *Chester County Law Reporter* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, the Pennsylvania Rules of Civil Procedure, the Chester County Orphans' Court Rules, order of Court, or otherwise.

**Rule L4.3B. Proof of Service of Legal Paper other than Citation or Notice.**

(1) *Certificate of Service.* A certificate of service shall be filed setting forth each document served, the date of service, and the manner of service (personal, registered or certified mail, or publication).

(a) *Personal Service.* If service is made by personal service, the certificate of service shall also set forth the time of service, place of service, and that a true and correct copy of the written notice was handed to the person served.

(b) *Registered or Certified Mail.* If service is made by registered or certified mail, the certificate of service shall state the date and place of mailing and include as an attachment the return receipt or a photostatic copy thereof. When the person who gives notice by registered or certified mail has personal knowledge, or has cause to believe, that such notice was not received by the person to be notified, the person giving notice shall so state on the certificate of service. When the address of the person given notice by registered or certified mail is in a country other than the United States of America, a statement that the notice was so mailed to that person at the designated address shall be sufficient unless otherwise ordered.

**Rule L4.5A. Notices of Order, Decree, or Adjudication.**

In any Orphans' Court proceeding, the Clerk shall immediately give written notice by ordinary mail, personal delivery, facsimile, or other electronic means of the entry of any order, decree, or adjudication to each party's attorney of record, or if unrepresented, to each party. Notice shall include a copy of the order, decree, or adjudication unless a bond is required, then no copy is provided until bond is posted. The Clerk shall note in the docket the mailing or type of delivery of the required notice and documents.

**Chapter V. Rules Governing Specific Types of Petitions.**

**Rule L5.6A. Appearance of Minor.**

A minor, under 14 years of age, who is the subject of a petition shall be present at the hearing unless excused by the Court.

**Rule L5.6B. Guardian Bonds.**

If bond is required of an appointed guardian, the Clerk shall not issue a copy of the guardianship order to the guardian until the bond has been filed. The Clerk may provide a non-certified copy of the order to the potential bonding company in order to facilitate the issuance of the bond. Where the guardian is appointed for several minor children of the same parents, one bond may be filed to cover the several estates.

**Rule L5.6C. Use of Minor's Funds During Minority.**

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth the:

(1) Manner and date of the guardian's appointment, as well as the guardian's qualifications;

(2) Age and residence of the minor, whether the minor's parents are living, the name of the person with whom the minor resides, the age of minor's spouse and children, if any;

(3) Value of the minor's estate, including real and personal property, and the minor's gross and net annual income;

(4) Circumstances of the minor, whether employed or attending school; if the minor's parent(s), or other person charged with the duty of supporting the minor, is living, the financial condition and income of such person and why that person is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor, the minor's spouse and children;

(5) Date and amount of any previous allowance by the Court; and

(6) Detailed financial requirements of the minor and the circumstances requiring the allowance.

**Rule L5.8A. Exhibits for a Petition to Discharge Fiduciary and Surety.**

Written consent of the surety, if any, shall be attached to the petition, along with orders to satisfy awards from all other parties shall be submitted with the petition.

**Rule L5.8B. Petition to Settle Small Estate.**

(1) Petitions for distribution of small estates under the Code, shall set forth:

(a) The name and address of the petitioner and the relationship of the petitioner to the decedent;

(b) The name, date of birth and domicile of the decedent, whether the decedent died intestate, the dates of the probate of the will and of the grant of letters, if any, and whether the personal representative has been required to give bond and in what amount;

(c) The names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages or similar items under the Code, or otherwise, and whether any of them are minors, incapacitated persons, or deceased, with the names of their fiduciaries, if any;

(d) The person or persons, if any, entitled to the family exemption and, if a claim therefor is made in this petition, any additional facts necessary to establish the prima facie right thereto;

(e) An inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit;

(f) The status of the inheritance tax;

(g) That twenty (20) days' written notice of intention to present the petition has been given to any unpaid beneficiary, heir or claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown. Notice shall be given in accordance with the Pennsylvania Orphans' Court Rules; and;

(h) A prayer for distribution of the personal property to those entitled and, in appropriate cases, for the discharge of the personal representative.

(2) There shall be attached to the petition the following exhibits:

(a) The original of the decedent's will, if it has not been probated, or a copy of the will, if it has been probated;

(b) Joinders of unpaid beneficiaries, heirs and claimants insofar as they are obtainable;

(c) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution or the family exemption;

(d) A copy of the inheritance tax return and, if applicable, proof of payment; and

(e) A copy of any notice given.

(3) No appraisal shall be required unless ordered by the Court.

**Rule L5.10A. Public Sale, Contents of Petition, Additional Requirements.**

(1) *Personal Representative.* A petition by a personal representative to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:

(a) The name, residence, and date of death of the decedent, whether the decedent died testate or intestate, and the date of the grant of letters;

(b) That the personal representative is not otherwise authorized to sell by the Code or is not authorized or is denied the power to do so by the will, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(c) Whether an inventory and appraisal has been filed, the total value of the property shown therein, and the value at which the real property to be sold was included therein;

(d) If the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

(e) The names and relationships of all interested parties, a brief description of their respective interests, whether any of them are deceased, minors, or incapacitated persons, and if so, the names and the record of appointment of their fiduciaries;

(f) A full description of the real property to be sold, the improvements thereon, by whom it is occupied, its rental value and current tax assessment; and

(g) Sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Trustee.* A petition by a trustee to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:

(a) How title was acquired, stating the date and place of probate of the will or recording of the deed;

(b) A recital of the relevant provisions of the will or deed pertaining to the real property to be sold, and of the history of the trust;

(c) The names and relationships of all interested parties, a brief description of their respective interests, and whether any of them are deceased, minors, or incapacitated persons, and if so, the names and the record of the appointment of their fiduciaries;

(d) The improvements on the property, by whom it is occupied, its rental value and current tax assessment;

(e) That the trustee is not otherwise authorized to sell by the Code, or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale, stating the reason(s); and

(f) Sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

(3) *Guardian.* A petition by a guardian to sell real property at public sale, under the Code, shall also set forth in separate paragraphs:

(a) The age of the ward;

(b) The names of the ward's next of kin and the notice given them of the presentation of the petition. When there are no known next of kin who are sui juris to whom notice may be given, public notice in accordance with the Pennsylvania Orphans' Court Rules and the Chester County Orphans' Court Rules must be given and proofs thereof must be attached to the petition as an exhibit;

(c) How title was acquired, stating the date and place of probate of the will or recording of the deed;

(d) A recital of the provisions of the will or deed relating to the real property to be sold;

(e) The nature and extent of the interest of the ward, and of other persons in the real property;

(f) The improvements on the property, by whom it is occupied, its rental value and current tax assessment; and

(g) Sufficient facts to enable the Court to determine that the proposed sale will be for the best interest of the ward.

**Rule L5.10B. Public Sale of Real Property Petition Exhibits.**

The following exhibits shall be attached to a petition by a personal representative, trustee, or guardian to sell real property at public sale:

(1) A copy of the will, deed, or decree by which the fiduciary was appointed;

(2) Any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent to join;

(3) Consent by any mortgagee whose lien would otherwise not be discharged by the sale, or, if not attached, the reason therefor; and

(4) An affidavit as to value by one licensed real estate appraiser.

**Rule L5.10C. Decree.**

Upon presentation of a public sale of real estate petition, the Court, if satisfied that public sale is appropriate, shall enter a decree fixing the time within which public sale shall be held and further fixing the time thereafter within which the return of sale shall be made to the Court.

**Rule L5.10D. Notice and Return.**

(1) After the allowance of a petition for public sale of real property, the public sale shall be advertised.

(2) A return of public sale of real property for the purpose of an approval or confirmation by the Court shall include an affidavit, which shall set forth:

- (a) The advertisement made;
- (b) The name and address of the purchaser and that said purchaser was the highest bidder; and
- (c) As an attachment, a complete copy of the written agreement of sale.

**Rule L5.10E. Security.**

On the return day of the sale, the Court, in the decree approving or confirming the public sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

**Rule L5.10F. Petition to Fix or Waive Additional Security, Personal Representative, Trustee.**

(1) *Form of Petition.* In a public sale by a personal representative or trustee without benefit of an order of court directing or authorizing such sale, where the personal representative or trustee is required to give bond, he/she shall, before the proceeds of the sale are paid to the personal representative or trustee by the purchaser, present a petition to the Court setting forth:

- (a) The date of death of the decedent;
- (b) The date of the petitioner's appointment;
- (c) The amount of the bond(s) filed by the petitioner and the date of such filing and the name(s) of the petitioner's surety;
- (d) The total valuation of the personal estate as shown in the inventory and appraisal, if any, and the total proceeds of any real estate sold previously;
- (e) A short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid;
- (f) A prayer for an order fixing the amount of additional security or for an order excusing the petitioner(s) from filing additional security, as the case may be; and
- (g) In those cases in which waiver of additional security is sought, the consent of the interested parties shall be attached and a statement as will justify the waiver of the additional security shall be included, and said statement shall include but not be limited to, an averment that there are no creditors whose claims shall be jeopardized by the sale and that all taxes have been paid.

(2) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

**Rule L5.11A. Private Sale of Real Property Petition Exhibits.**

The following exhibits shall be attached to a petition by a personal representative, trustee, or guardian to sell real estate at private sale:

- (1) A copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) Any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join, such notice containing the date of the presentation of petition to the Court;
- (3) Consent by any mortgagee whose lien would otherwise not be discharged by the sale, or, if not attached, the reason therefor; and
- (4) A copy of the agreement of sale.

**Rule L5.11B. Security.**

The Court, in the decree approving or confirming the private sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

**Rule L5.11C. Petition to Fix or Waive Additional Security, Personal Representative, Trustee.**

(1) *Form of Petition.* In a private sale of real estate by a personal representative or trustee without benefit of an order of Court directing or authorizing such sale, where the personal representative or trustee is required to give bond, he/she shall, before the proceeds of the sale are paid to the personal representative or trustee by the purchaser, present a petition to the Court setting forth:

- (a) The date of death of the decedent;
- (b) The date of the petitioner's appointment;
- (c) The amount of the bond(s) filed by the petitioner and the date of such filing and the name(s) of the petitioner's surety;
- (d) The total valuation of the personal estate as shown in the inventory and appraisal, if any, and the total proceeds of any real estate sold previously;
- (e) A short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid;
- (f) A prayer for an order fixing the amount of additional security or for an order excusing the petitioner(s) from filing additional security, as the case may be; and
- (g) In those cases in which waiver of additional security is sought, the consent of the interested parties shall be attached and a statement as will justify the waiver of the additional security shall be included, and said statement shall include, but not be limited to, an averment that there are no creditors whose claims shall be jeopardized by the sale and that all taxes have been paid.

(2) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

**Rule L5.12A. Mortgage or Lease of Real Property, Additional Requirements.**

(1) *Contents of Petition.* A petition to mortgage or lease real property by a personal representative, trustee or guardian, shall confirm as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale by the same fiduciary;



shall set forth the amount and terms of the proposed mortgage loan; and shall set forth sufficient facts to enable the Court to determine whether the proposed mortgage or lease should be approved.

(2) *Exhibits.* The following exhibits shall be attached to the petition where applicable:

(a) A copy of the will, deed, or decree by which the fiduciary was appointed;

(b) Consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent;

(c) A statement by the proposed mortgagee agreeing to grant the mortgage loan; and,

(d) An appraisal by a licensed real estate appraiser of the real property on which the proposed mortgage is to be secured.

(3) *Security.* The amount of the security or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the mortgage.

### **Chapter VII. Rules Relating to Pre-hearing and Hearing Procedure.**

#### **Rule L7.1A. Discovery.**

In Orphan's Court cases where any or all of the parties are seeking discovery, Court approval must be obtained prior to the taking of depositions, perpetuating testimony, or compelling the production of documents. The parties should anticipate that the Court will limit discovery when it appears that the subject estate or trust will be unduly depleted by discovery related expenses.

In matters where all parties are in agreement as to discovery, a written stipulation shall be filed with the Court for its approval within a reasonable time prior to the proposed commencement of discovery. The stipulation must be signed by all parties or their counsel and must provide specific stipulations as to the nature and extent of the discovery as well as a timetable for completion of the discovery. Before entering into such discovery stipulation, the parties must consider how discovery related expenses will adversely impact the subject estate or trust and make a good faith effort to mitigate that impact.

### **Chapter IX. Auditors and Masters.**

#### **Rule L9.1A. Notice of Hearings.**

Auditors and masters shall give at least twenty (20) days' notice of hearings held by them to all interested parties or to their attorneys of record in the manner provided in the Pennsylvania Orphans' Court Rules. Notice of succeeding hearings given by the auditor or master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

#### **Rule L9.6A. Report Notice and Objections.**

An auditor or master shall give notice of the filing of the report by sending a copy of the report to all parties of record. Any interested party shall have the right to file an objection(s) to such report within a period of twenty (20) days of the filing of the report. If an objection is filed, either party may request that the objection(s) be listed for argument.

#### **Rule L9.7A. Decree.**

If an objection is not filed within twenty (20) days of the report filing, or if any such objections are overruled,

the Court may enter a decree confirming the auditor's report or adopting the master's report.

### **Chapter X. Register of Wills.<sup>5</sup>**

#### **Rule L10.4A. Filing Petition for Appeal.**

(1) *Filing with Register.* A person or entity desiring to take an appeal from the judicial acts or proceedings of the Register, shall file a petition for appeal with the Register, specifying the issues on which it is based, stating whether there is a request that disputed issues of fact be submitted to a jury, setting forth the names of all interested parties, and reciting the necessary jurisdictional facts.

(2) *Transmission to Orphans' Court.* When a petition for appeal has been filed, the Register shall transmit the record to the Clerk.

#### **Rule L10.6A. Renunciations.**

Any renunciation executed outside the Register's office must be executed in the presence of a Notary Public.

### **Chapter XIV. Guardianships of Incapacitated Persons.<sup>6</sup>**

#### **Rule L14.2A. Preliminary Decree.**

A petition for guardianship shall be accompanied by a separate preliminary decree with citation for the Court's use in setting a hearing date in those instances where jurisdiction has not yet been established.

#### **Rule L14.2B. Petition, Additional Requirements.**

(1) The petition for guardianship shall include an allegation as to whether the alleged incapacitated person is known to have appointed an attorney-in-fact, trustee or agent, and if so, the identity and address of such person.

(2) The proposed guardian's written consent to his or her appointment as guardian shall be attached to the petition.

#### **Rule L14.2C. Service of Petition and Citation with Notice.**

(1) Personal service of the petition for guardianship and citation with notice shall be made on the alleged incapacitated person.

(2) Notice of the petition and the hearing shall be given to those statutorily entitled in accordance with the Code and the Pennsylvania Orphans' Court Rules.

(3) Notice shall also be given to any attorney-in-fact, trustee or agent.

#### **Rule L14.2D. Proof of Service of Petition and Citation with Notice.**

An affidavit of service of the petition and the citation with notice shall be filed with the Clerk at least seven (7) days prior to the hearing date.

#### **Rule L14.3A. Guardian's Accounts.**

(1) Guardian's accounts filed for audit shall conform with Ches.Co.O.C. Rule L2.1A.

(2) Guardian's accounts shall have attached thereto as an exhibit a copy of the guardian's inventory and a copy of the order or decree appointing the guardian. If the accounting is occasioned by the death of the incapacitated person, the account shall have attached thereto a copy of the will if the incapacitated person died testate and a

<sup>5</sup> For any disputed matters, all attorneys and parties are required to comply with Rule L1.6.

<sup>6</sup> Forms pertaining to guardianships are available with the Clerk and on the Clerk's website: [www.chesco.org/wills](http://www.chesco.org/wills).



copy of the appointment of the personal representative of the deceased incapacitated person's estate.

**Rule L14.3B. Notice of Filing of Account.**

Notice of the filing of the account shall be given as required by the Pennsylvania Orphans' Court Rules and any applicable local rule described herein. In all cases, notice shall be given to individuals entitled to notice under the Code.

**Rule L14.3C. Testamentary Writings.**

A person who possesses an original testamentary writing of an incapacitated person shall file it with the Clerk no later than by the time the guardian's inventory is required to be filed. The testamentary writing received by the Clerk shall be impounded until further order of Court.

**Chapter XV. Adoptions.<sup>7</sup>**

**Rule L15.1A. Procedure.**

(1) In all pleadings related to the termination of parent-child relationships and adoptions, all petitions, reports, etc., shall be filed with the Clerk.

(2) After the first pleading is filed, the case shall be referred to by the assigned docketing number and the adoptee's initials.

(3) Separate pleadings shall be filed for each proposed adoptee.

(4) When parental rights are sought to be terminated, whether by involuntary termination, consent, or voluntary relinquishment, a separate termination petition shall be filed for each parent.

(5) All petitions shall be accompanied by a separate preliminary decree [a preliminary decree with citation is required for matters where jurisdiction is not yet established] for the Court's use in setting a hearing date. The preliminary decree shall specify the names and addresses of the persons to whom notice is to be given.

(6) Hearing dates shall be scheduled not less than twenty (20) days after service of the petition.

(7) A motion for the appointment of counsel for the child whose parent's/parents' rights may be terminated and an order relating thereto shall be presented with each petition for involuntary termination of parental rights. At the time of filing, petitioner shall deposit with the Clerk any counsel fees amount required by statute. No such deposit shall be required for terminations sought by the Chester County Department of Children, Youth and Families.

(8) In every proceeding where the rules or statutes require that the adoptee's birth certificate be exhibited to the Court, the original birth certificate shall show the names of the mother and father, if recorded. If the name of the father is not recorded but there is a claim of paternity pursuant to statute, then that information shall be provided.

(9) The Vital Statistics "Certificate of Adoption" Form shall be filed with each petition for adoption as a separate unattached document.

**Rule L15.2A. Appearance of Intermediary, Voluntary Relinquishment to an Agency.**

In a voluntary relinquishment to an agency proceeding, the Court will require the appearance of representatives

of agencies or individuals who have acted as the intermediary unless excused by the Court.

**Rule L15.3A. Appearance of Intermediary, Voluntary Relinquishment to an Adopting Adult.**

In a voluntary relinquishment proceeding involving an adult intending to adopt, the Court will require the appearance of representatives of agencies or individuals who have acted as the intermediary unless excused by the Court.

**Rule L15.4A. Involuntary Termination of Parental Rights.**

(1) *Citation.* When a petition for involuntary termination of parental rights is filed, the Clerk shall issue to the parent(s) whose rights may be terminated a citation to show cause why the prayer of the petition should not be granted. The citation shall be made returnable no sooner than twenty (20) days after the date of issuance, unless ordered by the Court.

(2) *Notification by the Clerk.* The Clerk shall promptly send, by first class mail, a certified copy of all decrees terminating parental rights to the last known address of the person whose parental rights have been terminated or to his/her attorney of record. For this purpose, the petitioner or his/her attorney shall provide the Clerk with the last known address of the person whose rights have been terminated. The Clerk shall enter the mailing of such notice on the docket.

**Rule L15.5A. Adoption.**

(1) *Reports and Investigation.*

(a) In all cases in which the Chester County Department of Children, Youth and Families is the intermediary, the Court may rely on the intermediary's report and will not require an investigation by a court appointed investigator. In all other cases, with the exception of those treated differently by statute, an investigation shall be conducted by a court appointed investigator who, in the investigator's discretion, may rely upon the report of a voluntary child care agency acting as intermediary.

(b) If the report of the intermediary or the investigator is not filed within six (6) months of the filing of the report of intention to adopt (or the appointment of the investigator), the Court, on motion of any party, may issue a rule upon the intermediary or investigator to appear and show cause why the report has not been filed.

(c) If there is not an intermediary named in the report of intention to adopt, the attorney shall attach an affidavit to the report which shall explain in detail how the persons filing the report received possession of the adoptee from the birth parent(s), who arranged for the exchange of possession of the adoptee, how the person(s) filing the report received knowledge of the existence of the availability of the adoptee for potential adoption, and any other information the attorney may have regarding the relationship of the persons filing the report to the birth parent(s) and how the adoption was arranged.

(2) *Disclosure of Fees and Costs of Intermediary.*

(a) All intermediaries, other than Chester County Department of Children, Youth and Families, shall submit with the report of intention to adopt, an itemized report disclosing all adoption related fees, expenses, and charges. No investigator will be appointed and no hearings will be scheduled until this information has been filed.

(b) Counsel shall certify on the report offered into evidence that the adopting parent(s) has been given a copy of the report and fees.

<sup>7</sup> Forms pertaining to adoptions are available with the Clerk and on the Clerk's website: [www.chesco.org/wills](http://www.chesco.org/wills).

(3) *Required Submissions.*

In the course of causing an investigation to be made pursuant to statute, an agency or person designated by the Court to conduct such investigation, or the agency which placed the child, shall require prospective adoptive parents to submit or authorize collection of the following information pursuant to statute. Prospective adoptive parents who are not residents of Pennsylvania shall submit an equivalent criminal history record information and certificate from the state police and human services departments of the state where they reside.

(a) Pursuant to statute, a report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that its central repository contains no such information related to that person. Such criminal record history information shall be limited to that which is disseminated pursuant to statute; and

(b) A certification from the Department of Human Services as to whether the applicant is named in the central register as the perpetrator of a founded or indicated report of child abuse. The required certificate shall be valid if dated within twenty-four (24) months prior to the placement of the child by the agency. In the case of a private placement, the certificate shall be valid if dated within twenty-four (24) months of the Court hearing.

**Rule L15.5B. Adoption Investigation Fee.**

A person required to file a report of intention to adopt shall, when filing the report, pay an adoption investigation fee to the Clerk, in such amount as shall be established by the Court.

**Rule L15.5C. Disclosure of Fees and Costs.**

At the time of filing of the petition for adoption, counsel for petitioner(s) shall file a signed certification of adoption related fees, costs and expenses, anticipated through the hearing conclusion, as required by the Pennsylvania Orphans' Court Rules. The Court may request counsel to provide an itemized billing statement if the Court considers the amount unreasonable.

**Rule L15.6A. Notice; Method and Responsibility.**

(1) If notice by publication is ordered by the Court, the publication shall also appear in a newspaper of general circulation in the area of the last known address of the birth parent or where the petitioner believes the birth parent may currently be residing unless otherwise ordered by the Court.

(2) Petitioner(s) or petitioner(s)' counsel is responsible for seeing that notice is provided in accordance with the law for all persons entitled to notice. An affidavit of service shall be filed in all matters where notice is required, specifying the manner in which, and the person or agency to whom notice is given.

**Rule L15.7A. Adoption Search Requests.**

All requests for adoption information made pursuant to statute shall be provided by letter directed to the Court or by a completed questionnaire which can be obtained from the Clerk or available on its website at [www.chesco.org/wills](http://www.chesco.org/wills). If a Court file is located regarding the adoption in question, the Court will send the requestor a form petition for completion and filing with the Clerk.

[Pa.B. Doc. No. 16-1294. Filed for public inspection July 29, 2016, 9:00 a.m.]

## DAUPHIN COUNTY

## Promulgation of Local Rules; No. 1793 S 1989

## Order

And Now, this 15th day of July 2016, Dauphin County Orphans' Court Local Rules are promulgated as follows:

## CHAPTER I. PRELIMINARY RULES

**Rule 1.1. Short Title and Citation.**

These Rules shall be known as the Dauphin County Orphans' Court Rules and shall be cited as D.C.O.C.R.

**Rule 1.2. Construction and Application of Rules.**

(a) The Dauphin County Orphans' Court Rules, in conjunction with the Supreme Court Orphans' Court Rules and all Acts of Assembly regulating the practice and procedure in the Orphans' Court, shall regulate the practice and procedure in the Orphans' Court Division of this Court.

**Rule 1.6. Mediation by Agreement, Local Rule, or Court Order.**

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a pleading before the Court, including an Account filed by a fiduciary for audit.

(b) In such request for mediation, all interested parties shall identify:

(1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;

(3) Names and information regarding any interested parties having diminished capacity or a legal disability whose interests must be adequately protected; and

(4) The scheduled date for the initial mediation conference.

(c) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(d) Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

(e) The Court will respect the confidentiality of the mediation process and the mediator's obligation of confidentiality.

(f) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(g) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L.1125, No.169 (35 P.S. §§ 10225.101—10225.5102), as may be amended.

(h) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

**Rule 1.8(c). Docketing of Cases and Request for Assignment.**

(1) All matters shall be filed with the Clerk of the Orphans' Court before they are entertained by this Court.

(2) When the issuance of a citation is requested, or when any petition, account, objection, preliminary objection, exception to an auditor's or master's report, or motion is ready to be scheduled for a hearing, argument, or disposition by the Court, or when a conference with the Court is requested, a party must file a "Request for Assignment" using the latest format, together with a proposed citation, rule, or order which contain a distribution legend. The Request for Assignment must state:

- (a) the name and docket number of the case;
- (b) the title and date of the matter(s) ready for assignment;
- (c) whether all responsive pleadings have been filed or the time for responsive pleadings has elapsed;
- (d) if a hearing or argument is requested, the anticipated length of the hearing or argument;
- (e) a list of any related cases; and
- (f) the names, addresses, telephone numbers, and email addresses of all counsel and self-represented parties.

Request for Assignment forms shall be available from the Clerk of the Orphans' Court or online at [www.dauphincounty.org](http://www.dauphincounty.org).

**Rule 1.9. Disposition.**

The Court may hear testimony or appoint a master to hear the testimony and report his/her findings of fact, conclusions of law and recommendations to the Court.

**Note:** See PEF Code § 751

**CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

**Rule 2.11. Appointment of Official Examiners.**

(a) Rules pertaining to auditors in Chapter IX shall extend to official examiners insofar as applicable.

**CHAPTER III. PETITION PRACTICE AND PLEADINGS**

**Rule 3.4. Form of Petition; Exhibits.**

(c)(1) A typewritten version of a holographic writing offered for probate or interpretation shall be attached to a petition.

(2) The Court may require the filing of exhibits, consents or approvals to a petition as may be required by

Pennsylvania Orphans' Court Rules, applicable statute, or other authority applicable to the petition, as may be deemed necessary in the discretion of the Court in exercise of its equity powers or application of equitable principles.

**Rule 3.7. Time for Filing and Service of Responsive Pleadings.**

(e) *Disposition—No Answer.* If no answer is filed, upon proof of service of the citation, the Court may grant the relief requested.

**CHAPTER IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT**

**Rule 4.2. Citation of Notice to Individuals and Entities.**

(e) *Form of Notice:* Except as otherwise provided in these Rules or as provided by Act of Assembly, every notice shall contain at least the following information:

- (1) the caption of the case;
- (2) a description of the nature of the proceeding;
- (3) the date, time and place when the matter is to be heard by the Court to the extent then known;
- (4) the name of the decedent, settlor, incompetent or minor, if not disclosed by the caption;
- (5) the names and addresses of all fiduciaries; and
- (6) the name and address of counsel for each fiduciary.

**Note:** Pennsylvania Rules of Civil Procedure 422, 423 and 424 specify to whom notice shall be given when serving the Commonwealth of Pennsylvania and its subdivisions, partnerships and unincorporated associations, and corporations, respectively.

**CHAPTER IX. AUDITORS AND MASTERS**

**Rule 9.1. Appointment; Notice of Hearings.**

(a) An auditor or master may be appointed by the Court on its own motion or upon the petition of the accountant or of any interested party. All auditors and masters shall be members of the Bar of the Supreme Court of Pennsylvania.

(b) Once appointed, an auditor or master shall schedule a hearing and give notice thereof to all interested parties at least twenty days prior to the hearing. The notice of the auditor or master shall be given in accordance with Rule 4.2.

**Rule 9.2. Filing of Report.**

(a) Reports of auditors and masters shall be filed with the Clerk of the Orphans' Court and served on the attorney for each interested party.

**Rule 9.6. Notice of Filing Report.**

(a) At the time of filing of the report, the auditor or master shall notify, in writing, the attorney for each interested party of the date of filing of the report and recommendation. The notice shall state that the report and recommendation will be submitted to the court for review and confirmation if no timely exceptions are filed in accordance with Rule 9.7(a)(1).

**Rule 9.7. Confirmation of Report.**

(a)(1) *Exceptions.* Any exceptions to the report and recommendation shall be filed with the Clerk of the Orphans' Court within twenty days after receipt of the notice required by Rule 9.6(a) and served on the attorney for each interested party and the master or auditor. If exceptions are filed, the Clerk of the Orphans' Court shall



forward the file to the Court Administrator's Office for assignment to a judge. No exceptions may be filed after the expiration of the twenty days without leave of Court for good cause shown.

(2) *Confirmation.* If no exceptions have been filed, the Clerk of the Orphans' Court shall forward the file to the Court Administrator's Office for assignment to a judge and the report and recommendation shall be confirmed absolutely.

**Rule 9.9. Rules for Masters.**

Rules pertaining to auditors shall extend to masters insofar as applicable.

**CHAPTER X. REGISTER OF WILLS**

**Rule 10.4. Appeals from the Register of Wills.**

(a) When an appeal is taken from a proceeding before the Register of Wills, the record of the matter shall be certified to the Court in accordance with 20 Pa.C.S. Section 907 (relating to certification of records to the Court). The appeal shall be in the form of a petition to the Court and shall set forth:

- (1) The nature of the proceedings before the Register.
- (2) The basis for the appeal, including the facts or circumstances upon which it is based.
- (3) The names and the addresses of all interested parties, including those who have not been parties of record.

These rules shall be effective September 1, 2016.

*By the Court*

RICHARD A. LEWIS,  
*President Judge*

[Pa.B. Doc. No. 16-1295. Filed for public inspection July 29, 2016, 9:00 a.m.]

**DELAWARE COUNTY**

**Local Rule 1920.54; Doc. No. MD-12-5040**

*And Now*, this 7th day of July, 2016, It is hereby Ordered and Decreed that the existing Local Rule 1920.54 is amended and shall be entirely replaced by New Local Rule 1920.54 in accordance with the following language effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*1920.54. Hearing by Master. Report. Related Claims.**

(d) Once the ancillary claims for property division, alimony and counsel fees/expenses are ripe for determination, either party may file a motion for a case management conference with the Office of Judicial Support which will then be forwarded to the Court Administrator. This motion should be in substantially the following form:

**(CAPTION)**

**MOTION FOR CASE MANAGEMENT CONFERENCE**

1. The moving party is \_\_\_\_\_, the (plaintiff or defendant) in the above matter.
2. Respondent is \_\_\_\_\_, the (plaintiff or defendant) in the above matter.
3. Moving party represents that both parties have filed affidavits of consent; or one party has filed an affidavit of

consent under 23 Pa.C.S. § 3301(c)(2); or that plaintiff has filed and served a 3301(d) affidavit to which no counter-affidavit has been filed; or that a fault divorce master has recommended that a divorce be granted and no exceptions have been filed, and therefore the case is ripe for equitable distribution.

4. Moving party represents that an Inventory has been filed in compliance with Pa.R.C.P. 1920.33.

5. Moving party respectfully requests that the matter be scheduled for a case management conference.

Respectfully submitted,

As a condition precedent to the scheduling of a case management conference for the disposition of the outstanding ancillary claims, the moving party must have filed an Inventory Pursuant to Pa.R.C.P. 1920.33 and certify in the motion for case management conference that an Inventory has been filed. Additionally, one of the following must have occurred:

(1) both parties have executed and filed affidavits of consent pursuant to § 3301(c) of the Divorce Code;

(2) one party has filed an affidavit of consent under 23 Pa.C.S. § 3301(c)(2);

(3) one party has filed and served a 3301(d) affidavit and all accompanying materials pursuant to the Pennsylvania Rules of Civil Procedure, and twenty (20) days have passed from service thereof without a counter-affidavit having been filed refuting either the allegation of a two-year separation or the allegation of an irretrievable breakdown of the marriage;

(4) a recommendation for a fault divorce has been issued by a divorce master and no exceptions have been taken thereto; or, if exceptions have been taken, those exceptions have been resolved by the court in favor of upholding the master's recommendation.

(e) The Court Administrator shall then schedule a case management conference before a hearing officer. At the conclusion of the case management conference, a case management order shall be issued which shall include:

(1) a listing of document production or other discovery required;

(2) a schedule for such discovery/document production;

(3) a due date for the parties' pre-trial statements;

(4) a date for a pre-trial conference;

(5) such other matters necessary to prepare the case for the pre-trial conference as the hearing officer shall deem appropriate.

Failure to comply with the requirements of a case management order may result in the imposition of sanctions under Pa.R.C.P. 4019 and/or Pa.R.C.P. 1920.33(c)(d). Sanctions may include but are not limited to an award of attorney's fees and/or precluding the introduction of evidence in support of or in opposition to claims.

(f) At the pre-trial conference, the hearing officer will discuss the issues applicable to the case as well as potential settlement. The hearing officer will also resolve any outstanding discovery issues. At the conclusion of the pre-trial conference, in the discretion of the hearing officer, the case will be assigned either a date for another pre-trial conference or a hearing date.

(g) The parties must be present at the hearing and prepared to present testimony and/or documentary evi-



dence. The hearing will be a non-record hearing. However, on application of a party, and in the sole discretion of the hearing officer, the hearing or portions thereof may be reported (and transcribed). It shall be the obligation of the party requesting reporting (and transcription) to make the necessary arrangements therefore.

(h) All case management conferences, pre-trial conferences and hearings shall be held in the courthouse complex or other authorized facilities.

(i) Hearings shall be conducted in accordance with the Pennsylvania Rules of Evidence. A party may, however, offer into evidence in the nature of real estate and personal property appraisals, estimates of value or worth, listings of fees and costs, actuarial and other economic reports, as well as the official or certified record of any governmental or judicial body, provided that true and correct copies of all such documentary evidence have been provided to the adverse party no later than the date for pre-trial conference, unless the time has been extended by the hearing officer.

(j)(i) In cases assigned to the Equitable Distribution Masters for disposition, petitions filed by counsel seeking Leave to Withdraw as Counsel shall be filed pursuant to Local Rule 206.8. All Petitions filed by Counsel seeking Leave to Withdraw as Counsel, and the Certification required in connection therewith, shall be filed at least ten (10) days prior to any scheduled proceeding before the Equitable Distribution Master.

(ii) At the time of the filing of the Petition, or prior to the Hearing Date assigned thereto, petitioning counsel, when appropriate, may file a Certification reporting that all parties and counsel have been notified of the filing of the Petition, and that there is no opposition thereto. Upon

the filing of such a Certification, the matter shall be removed from the Hearing List, and the Order, submitted with the Petition shall be entered as a matter of course.

(k)(i) The parties to a Decision of an Equitable Distribution Master shall have the right to seek Reconsideration of the Decision by the filing of a detailed Petition within fourteen (14) days of the date of entry of the Decision. Grounds for Reconsideration shall be limited to miscalculation, failure of the Master to consider specific assets or liabilities, and other or similar errors. Reconsideration shall not lie in order to permit re-litigation by the parties of an award or denial of Alimony or Counsel-Fees or Costs, the percentage of division, or other issues related to the dispositive plan decided upon by the Master.

The Petition for Reconsideration shall be referred immediately to the Master making the Decision for disposition. Filing of the Petition shall not, in and of itself, serve to stay the time for Appeal. Grant of the Petition for Reconsideration shall act as a Supersedeas of all matters.

(ii) The parties to a decision of an Equitable Distribution Master shall have the right of Appeal from the Decision of the Equitable Distribution Master by the filing of a Request for Hearing De Novo within twenty (20) days of the date of entry of the Decision.

(iii) A party filing an Appeal of a Decision of the Equitable Distribution Master shall pay a fee to the Office of Judicial Support in the amount of Three Hundred Dollars (\$300.00) in consideration thereof.

By the Court

CHAD F. KENNEY,  
President Judge

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY  
CIVIL ACTION—LAW

No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

Vs.

\_\_\_\_\_  
Defendant

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_ after a Conference before the Court appointed Hearing Officer, \_\_\_\_\_ Esquire, it is hereby ORDERED as follows:

Counsel should initial all items which apply, however, if they do not apply, they should be designated as N/A.

I. INVENTORY

\_\_\_\_\_ Plaintiff has/has not filed an Inventory pursuant to R.C.P. 1920.33.

\_\_\_\_\_ Defendant has/has not filed an Inventory pursuant to R.C.P. 1920.33.

II. DISCOVERY

\_\_\_\_\_ Discovery has been completed.

\_\_\_\_\_ Discovery has not been completed.

ALL DISCOVERY SHALL BE COMPLETED BY: \_\_\_\_\_ .

III. DISCOVERY BY PLAINTIFF

\_\_\_\_\_ Plaintiff has served Interrogatories. Said Interrogatories shall be answered no later than \_\_\_\_\_ .

\_\_\_\_\_ Plaintiff shall serve Interrogatories no later than \_\_\_\_\_ .

which shall be answered by Defendant no later than \_\_\_\_\_ .

Docket No. \_\_\_\_\_

IV. DISCOVERY BY DEFENDANT

\_\_\_\_\_ Defendant has served Interrogatories. Said Interrogatories shall be answered no later than \_\_\_\_\_.

\_\_\_\_\_ Defendant shall serve Interrogatories no later than \_\_\_\_\_ which shall be answered by Plaintiff no later than \_\_\_\_\_.

V. TAX RETURNS INCLUDING W-2'S

\_\_\_\_\_ Plaintiff shall provide tax returns (including all w-2's) for the years \_\_\_\_\_ to Defendant by \_\_\_\_\_.

\_\_\_\_\_ Defendant shall provide tax returns (including all w-2's) for the years \_\_\_\_\_ to Plaintiff by \_\_\_\_\_.

VI. OTHER DISCOVERY

\_\_\_\_\_ The following documents shall be provided by Plaintiff to Defendant by \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The following documents shall be provided by Defendant to Plaintiff by \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Docket No. \_\_\_\_\_

\_\_\_\_\_ The parties certify that the following pension(s) is claimed by at least one party to be subject to equitable distribution:

Description: If no pension is subject to equitable distribution designate as N/A.	Estimated Value
_____	_____
_____	_____
_____	_____
_____	_____

VII. NON-DISSIPATON ORDER

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VIII. INSURANCE BENEFICIARY STATUS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Hearing Officer further finds the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Docket No. \_\_\_\_\_

IX. PRE-TRIAL STATEMENT

\_\_\_\_\_ Each party shall file and serve a pre-trial statement no later than \_\_\_\_\_ pursuant to Pa.R.C.P. 1920.33(b).

PLEASE REFER TO THE APPLICABLE PENNSYLVANIA RULES OF CIVIL PROCEDURE AND SECTIONS OF THE DIVORCE CODE FOR FORM AND/OR SUBSTANCE

X. PRE-TRIAL CONFERENCE DATE

The Pre-trial/Settlement Conference is scheduled for \_\_\_\_\_.

In the event that any of the foregoing items have not been complied with by the specific date, a party may file a motion with the Court. That Motion may include a request for an Order under Pa.R.C.P. 4019 and/or Pa.R.C.P. 1920.33(c)(d). Sanctions may include, but are not limited to, the imposition of attorney's fees and /or precluding the introduction of evidence in support of or in opposition to claims. Counsel may apply for further discovery upon cause shown after the foregoing has been provided.

ANY ITEMS NOT PROVIDED FOR BY ONE PARTY TO THE OTHER PURSUANT TO THIS ORDER MAY NOT BE INTRODUCED OR RELIED UPON AT TRIAL UNLESS BY CONSENT ORDER OR ORDER OF THE COURT.

I acknowledge receipt of the Order and requirements set forth herein.

\_\_\_\_\_  
Attorney for Plaintiff  
Or Pro Se Party

\_\_\_\_\_  
ID. #

\_\_\_\_\_  
Address

\_\_\_\_\_  
Attorney for Defendant  
Or Pro Se Party

\_\_\_\_\_  
ID. #

\_\_\_\_\_  
Address

\_\_\_\_\_  
Hearing Officer

\_\_\_\_\_  
JUDGE

[Pa.B. Doc. No. 16-1296. Filed for public inspection July 29, 2016, 9:00 a.m.]

**DELAWARE COUNTY**

**New Local Rule 1915.4-1; Doc. No. MD-12-5040**

*And Now*, this 30th day of June, 2016, It is hereby Ordered and Decreed that the existing Local Rule 1915.3 is rescinded and shall be entirely replaced by New Local Rule 1915.4-1 in accordance with the following language effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*1915.4-1. Custody Proceedings, Appointment of Conciliator.**

(d) A Custody Conciliator shall be appointed by the Board of Judges. All custody proceedings shall be listed for a conference before the Conciliator prior to being assigned to a judge. The parties to the case and if represented, their counsel, shall attend.

(e) Agreements reached as a result of the conference shall be submitted in form of stipulation and proposed order to the Custody Conciliator, who will present the stipulation and order to the court with a recommendation.

(f) Cases not resolved at the initial conciliation conference may be continued and relisted by the Custody Conciliator for further conferencing, or may be forwarded to the court for hearing on the merits. When cases are forwarded for court hearing the Conciliator will submit a brief synopsis of the case as part of a letter of transmittal.

(g) If, after proper service and/or notification, a party fails to appear at a conciliation conference, the Conciliator will report to the court and may recommend that the court impose appropriate sanctions.

(h) A party may offer into evidence without further proof the following items:

(1) Reports and correspondence and records from physical health providers, educators, law enforcement departments and related officials if said documents are provided to opposing counsel or pro se party at least twenty (20) days before the scheduled hearing. If the moving party receives no written objection thereto not less than ten (10) days prior to the trial date, this evidence shall be admitted without the necessity of testimony from the scrivener. If objection is made, the party requesting the admission of said evidence may submit a specific written request for an evidentiary ruling to the Court Administrator for referral to the appropriate Judge. In no event shall the scheduled hearing be delayed as a result of the application of this rule.

(2) Reports and correspondence from mental health providers and custody evaluators if said documents are provided to opposing counsel or pro se party at least twenty (20) days before the scheduled hearing. If the moving party receives no written objection thereto, not less than ten (10) days prior to the trial date, this evidence shall be admitted without the necessity of testimony from the scrivener. If objection is made, the party requesting the admission of said evidence must be prepared to present the person whose testimony is waived by this Rule. In no event shall the scheduled hearing be delayed as a result of the application of this Rule.

*By the Court*

**CHAD F. KENNEY,**  
*President Judge*

[Pa.B. Doc. No. 16-1297. Filed for public inspection July 29, 2016, 9:00 a.m.]

## DELAWARE COUNTY

## New Local Rule 1915.11(d); Doc. No. MD-12-5040

*And Now*, this 30th day of June, 2016, It is hereby Ordered and Decreed that the New Local Rule 1915.11(d) is hereby adopted in accordance with the following language effective 30 days after publication in the *Pennsylvania Bulletin*.

**Rule \*1915.11(d). Appointment of Attorney for Child, Interrogation of Child, Attendance of Child at Hearing or Conference.**

(d) Unless the party is directed by the court, the party wishing to bring a child or children to the hearing or conference shall provide at least seven (7) days written notice to all involved parties, or, if represented, their counsel.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

[Pa.B. Doc. No. 16-1298. Filed for public inspection July 29, 2016, 9:00 a.m.]

## DELAWARE COUNTY

## Orphans' Court Local Rules; Doc. No. 12-5040

## Order

*And Now*, this 20th day of July, 2016, it is Hereby Ordered and Decreed that all current Delaware County Orphans' Court Rules and Forms are rescinded effective September 1, 2016 and the following Delaware County Orphans' Court Rules are adopted and shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

CHAD F. KENNEY,  
*President Judge*

## CHAPTER I

## Del.Co.O.C. Rule 1.1A. Short Title and Citation.

The Delaware County Orphans' Court Rules shall be known as such, shall be referred to individually as "Local Rule" and shall be cited as "Del.Co.O.C. Rule \_\_\_\_\_."

## Del.Co.O.C. Rule 1.2A. Legal Publication.

The *Delaware County Legal Journal* is designated by the court as the legal publication for the advertising and publication of legal notices, in accordance with Pa.R.C.P. 430.

## Del.Co.O.C. Rule 1.7A. Entry and Withdrawal of Counsel.

(1) In addition to the methods set forth in Rule 1.7, written appearance of any attorney may be entered by entering counsel's information on a legal paper filed of record.

(2) Written entry of appearance, however made, shall contain the attorney's name, Supreme Court Identification number, address and telephone number, and may contain a fax number and/or an email address.

(3) Inclusion of a fax number and/or email address in the written entry of appearance constitutes counsel's agreement to accept service of Legal Paper other than

Citations or Notices by fax and/or email in accordance with Rule 4.3(c) and (d), and to accept service of notices, orders and opinions from the court by fax and/or email in accordance with Rules 4.3 and 4.5.

## CHAPTER II

## Del.Co.O.C. Rule 2.6A. Date of Filing.

An account shall be filed not later than the fifth Tuesday preceding the day on which it is called for audit, except when that Tuesday falls on a Court holiday, in which event such account must be filed not later than the day preceding the Court holiday.

## Del.Co.O.C. Rule 2.7A. Audits and Claims.

(1) An appearance slip shall be filed on behalf of each party represented at audit. Counsel for the accountant, for any objector, or for any challenged claim shall be present at the call of the Audit List unless excused by the Court.

(2) Testimony or argument will not be heard at the call of the Audit List. A later time for hearing or argument will be fixed by the Court if deemed necessary by the Court when a claim against an estate is not admitted by accountant or is contested by any interested party, or if a question of law is submitted for adjudication.

(3) Objections may be made orally at the call of the Audit List, in which case the objections shall thereafter be filed in writing within 10 days with notice as provided in Pa.O.C. Rule 2.7(a).

## Del.Co.O.C. Rule 2.9A. Schedules of Distribution.

(1) *Filing*. The Court, when it appears advisable or when requested, will direct the attorney for accountant to prepare and file a schedule of distribution. Schedules shall be certified by the attorney for accountant to be correct and in conformity with the adjudication, and shall be filed with the Clerk. When a schedule is approved in writing by interested parties, the attorney for accountant shall also certify whether or not such parties constitute all of those affected thereby.

(2) *Confirmation*. If no objections are filed by the 20th day after the schedule was filed, it will be confirmed, as of course. Schedules approved in writing by all interested parties affected thereby will be confirmed, as of course, on the day filed. Thereupon the accountant shall have authority to make necessary assignments and transfers of any assets awarded in kind.

(3) *Objections*. Objections to schedules of distribution shall be filed with the Clerk, and may not be filed later than the twentieth day after the schedule was filed, unless said period of twenty (20) days is extended by the Court. Such objections may raise questions relating only to the schedule itself, and shall in no event raise questions which were or could have been raised previously, by claims, or by objections to the account or petition for adjudication/statement of proposed distribution. Objections to schedules shall be in writing, numbered consecutively, signed by the objector or the objector's attorney and each objection shall:

(a) be specific as to description and amount;

(b) raise but one issue of law or fact, but if there are several objections to items included in or omitted from



the schedule relating to the same issue, all such objections shall be included in the objection; and

(c) set forth briefly the reason(s) in support thereof.

(4) *Partial Confirmation.* Where the matters which are the subject of a schedule of distribution are so separate and distinct that an objection to any of them, whether sustained or dismissed, cannot affect the others, the confirmation of such schedule shall not be suspended except to the extent of the objection. Distribution may proceed as to all other matters and the usual process to enforce it may issue.

(5) *Additional Receipts and Disbursements.* Receipts and disbursements since the date to which the account was stated shall be set forth in the schedule of distribution.

**Del.Co.O.C. Rule 2.9B. Schedules of Distribution—Notice of Filing.**

(1) *When Notice Given.* Notice of filing the schedule of distribution shall be given to all interested parties affected thereby who do not submit with it their written approval, but only when the schedule contains:

(a) items of additional receipts or disbursements not included in the adjudication; or

(b) distribution of assets which were awarded in kind in the adjudication, but which were neither specifically bequeathed to the distributee nor elected by him to be taken in kind or which were revalued.

(2) *Time and Method of Notice.* Such notice shall be given no later than the day of the filing of the schedule, by notice to all the interested parties or their attorneys.

(3) *Return of Notice.* The attorney for accountant shall certify on the schedule that due notice of the filing thereof was given as required by this rule and he shall attach a copy of the notice and a list of those to whom notice was given.

**Del.Co.O.C. Rule 2.9C. Objections to Schedule of Distribution—Notice of Filing, Time and Method, and Return.**

(1) *To Whom Given.* Notice of filing of objections to the schedule of distribution shall be given to the accountant and to all interested parties affected thereby or their attorneys.

(2) *Time and Method of Notice.* Notice shall be given no later than the day of the filing of the objections to the schedule to the accountant and all other interested parties affected thereby or their attorneys. A copy of the objections shall be included with the notice to the accountant or the accountant's attorney.

(3) *Return of Notice.* At the time of the filing of the objections, the attorney for the objector shall file a certification that due notice of the filing thereof was given as required by these rules, to which certification there shall be attached a copy of said notice as well as the names and details of the notice given to the parties notified or their attorneys.

**Del.Co.O.C. Rule 2.9D. Distribution of Real Estate.**

(1) *When no partition or allotment required, or when distributees agree to schedule.* Schedules of distribution shall include separate awards of real estate to the parties entitled thereto, whether individually or, where the circumstances require, in undivided interests. The real estate so awarded shall be described in the same detail and with the same particularity as is commonly required to be included in deeds and should recite how the title

was acquired by decedent. Approval of schedules of distribution shall be in the nature of confirmation of title in the respective distributees, and the Clerk is authorized to certify to integral excerpts or extracts from such schedules, so approved, for purposes of recording such devolutions of real estate in the Office of the Recorder of Deeds.

(2) *Partition or Allotment of Real Estate Requested by Accountant or by a Party in Interest.* Whenever partition or allotment of real estate is requested by the accountant or a party in interest, the request shall be made at the audit and the Court shall make such order, including a direction to submit an information certificate, issued by an attorney or a responsible title insurance company, showing the current state of the title, the preparation of a schedule of distribution if required, notice to the parties, and fixing the dates of further hearings, as may be necessary under the circumstances to protect all parties in interest.

**CHAPTER III**

**Del.Co.O.C. Rule 3.4A. Proposed Form of Decree.**

(1) All petitions (excluding Petitions for Adjudication/ Statements of Proposed Distribution and excluding petitions for citation which are specifically addressed in Pa.O.C. Rule 3.5(a)) shall have a proposed preliminary decree which provides wording for a hearing to be scheduled, should the Court deem it necessary, affixed to the Petition.

(2) The proposed form of decree should be entitled: Decree.

**Del.Co.O.C. Rule 3.5A. Citation Practice.**

(1) Unless otherwise stated in both the Court's decree and in the citation, the return date set forth in the citation shall represent a return date only, for filing return of service and/or notice, and for the filing of any response to the pleading pursuant to which the citation has been issued. Upon request of counsel or by order of court a hearing may be scheduled after the return date.

(2) A copy of the preliminary decree signed by the Court shall be served upon each cited party along with the citation and a copy of the petition as set forth in Pa.O.C. Rule 3.5(a)(2).

**Del.Co.O.C. Rule 3.5B. Notice Practice.**

(1) If a petition is filed and a preliminary decree setting a hearing date and/or a return date is issued without citation by the Court, service of the preliminary decree and the petition shall be made on all interested parties in accordance with Pa.O.C. Rule 4.3(a).

**Del.Co.O.C. Rule 3.5C. Uncontested Petitions.**

(1) If a petitioner believes there will be no objections, by creditors and/or parties in interest, to a petition being filed, a petitioner may state this in the petition and send notice pursuant to Pa.O.C. Rule 4.2 to all such creditors and/or parties at least twenty (20) days prior to filing said petition advising said creditors and/or parties in interest of the projected date of filing said potentially unopposed petition. In the notice, petitioner should advise said creditors and/or parties in interest that petitioner intends to state to the Court in the petition that said petition is unopposed and any creditor or party in interest who disagrees with petitioner's position that the petition is unopposed must notify petitioner or petitioner's counsel on or before the projected date of filing of the petition. If no creditor or party in interest notifies petitioner or petitioner's counsel by the projected filing date that the

petition is opposed, the Court may rule on the petition without scheduling a hearing thereon, or may schedule a hearing if the Court believes a hearing is necessary for any reason.

(2) The date of the notice shall be the date of mailing, or service of the notice. A certification by counsel listing the persons notified and stating the date and manner of service, together with a copy of the notice given, shall be attached to the petition.

(3) If all potential creditors and/or parties in interest are in agreement and have signed consents to the proposed petition, the petitioner may attach consents to the petition and advise the Court that all parties in interest have consented to the petition. Under these circumstances, the petitioner does not need to give twenty (20) days notice of the filing of the proposed petition. Upon receipt of the petition, wherein petitioner has advised the Court that all creditors and/or parties in interest have signed consents, and said consents are attached to the petition, the Court may rule on said petition without scheduling a hearing thereon, or may schedule a hearing if the Court believes a hearing is necessary for any reason.

(4) The above manner of proceeding (without a hearing) is not available in matters wherein the relevant statutes require a hearing.

**Del.Co.O.C. Rule 3.12A. Necessary Identification Information of Attorney.**

The telephone number and Pennsylvania Supreme Court Identification Number of each signing attorney must be included on all pleadings and responsive pleadings that the attorney is filing in addition to the attorney's address.

**CHAPTER V**

**Del.Co.O.C. Rule 5.2A. Whether Petition Required.**

The application for the family exemption may be made by petition to the Court in any case and must be by petition in all cases not within Del.Co.O.C. Rules 5.2B and 5.2C.

**Del.Co.O.C. Rule 5.2B. Voluntary Distribution.**

When the personal representative at his own risk delivers or permits to be retained assets of the estate in satisfaction or partial satisfaction of the exemption he shall set forth the same as a credit in the account.

**Del.Co.O.C. Rule 5.2C. Award in Adjudication.**

When the spouse or an adult child claims the exemption, but payment or delivery thereof is not to be made until distribution of the estate is awarded by the court upon the personal representative's account, the award thereof will be included in the adjudication upon written request submitted at the audit. Such request may be made by the personal representative or the claimant and may be made by including it in the petition for adjudication.

**Del.Co.O.C. Rule 5.2D. Procedure When Appraisal of Personal Property Necessary.**

When personal property is claimed and an appraisal is necessary, the court will direct the appraisal to be made by special order in each case.

**Del.Co.O.C. Rule 5.2E. Notice.**

When the procedure is without petition, no notice other than that to the personal representative need be given of the claim for exemption.

**Del.Co.O.C. Rule 5.2F. Procedure When Challenge to Family Exemption.**

(1) *When Petition Filed.* When the procedure is by petition, challenges to the appraisal or allowance, or both, may be raised pursuant to the procedure outlined in Pa.O.C. Rules 3.6 and 3.7.

(2) *Challenges to Appraisal.* Challenges which relate only to the amount of the appraisal will be dismissed unless a definite and bona fide bid for the property is made, or facts warranting consideration by the court appear.

**Del.Co.O.C. Rule 5.4A. Extension of Time.**

A petition for an extension of time in which the surviving spouse may file an election to take against the will shall include the items required for a petition under Pa.O.C. Rule 5.4(a) to the extent applicable.

**Del.Co.O.C. Rule 5.5A. Filing of Report.**

A guardian ad litem or trustee ad litem shall file a report if so ordered by the court.

**Del.Co.O.C. Rule 5.6A. Appearance at Presentation of Petition.**

If the minor is under fourteen (14) years of age, the court may require the appearance of the minor in court to make the selection of a guardian of the estate or of the person.

**Del.Co.O.C. Rule 5.6B. Certificate of Health.**

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence a certificate of health signed by a licensed physician, attesting to the present condition of health of the following persons:

- (1) the minor;
- (2) the proposed guardian(s).

**Del.Co.O.C. Rule 5.6C. Certification of Household Residents.**

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence a certification attesting to the name, age, and relationship to the minor of each individual residing in the household with the proposed guardian(s) and the minor.

**Del.Co.O.C. Rule 5.6D. Child Abuse and Police Clearances.**

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence current (within one (1) year of the hearing) child abuse and police clearances on forms provided by the Department of Human Services and the State Police for the following persons:

- (1) the proposed guardian(s);
- (2) each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor.

**Del.Co.O.C. Rule 5.6E. Federal Bureau of Investigation Clearance.**

(1) Prior to a hearing on a petition to appoint a guardian of the person of a minor, the proposed guardian(s) and each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the finger-

prints to the Federal Bureau of Investigation for the purpose of verifying the identity of the proposed guardian(s) and each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor and obtaining a current record of any criminal arrests and convictions. (This Rule is designed to match the requirements to be met by Volunteers Having Contact with Children as outlined in 23 Pa.C.S. 6344.2).

(2) The verification(s) of identity and record(s) obtained from the Federal Bureau of Investigation for the person(s) stated above shall be offered into evidence at the hearing on the petition to appoint a guardian of the person of the minor.

**Del.Co.O.C. Rule 5.6F. Allowances.**

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

(1) the manner of the guardian's appointment and qualifications and the dates thereof;

(2) the age and residence of the minor, whether the minor's parents are living, the name of the person with whom the minor resides, the name and address of the minor's spouse and children, if any;

(3) the value of the minor's estate, real and personal, and the net annual income;

(4) the circumstances of the minor, whether employed or attending school; if the minor's father, mother or other person charged with the duty of supporting the minor is living, the financial condition and income of such person and why such person is not discharging their duty to support the minor; and whether there is adequate provision for the support and education of the minor, and/or the minor's spouse and children;

(5) the date and amount of any previous allowance by the court;

(6) the financial requirements of the minor and his family unit, in detail, and the circumstances making such allowance necessary.

**Del.Co.O.C. Rule 5.10A. Public Sale, Contents of Petition, Additional Requirements.**

(1) *Personal Representative*—A petition by a personal representative to sell real property at public sale, under Section 3353 of the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

(a) the name, residence and date of death of the decedent, whether the decedent died testate or intestate, and the date of the grant of letters;

(b) that the personal representative is not otherwise authorized to sell by the Code; or is not authorized or is denied the power to do so by the Will, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(c) whether an inventory and appraisal has been filed, the total value of the property shown therein, and the value at which the real property to be sold was included therein;

(d) if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

(e) the names and relationships of all interested parties, a brief description of their respective interests, whether any of them are deceased, minors, or incapacitated persons, and if so, the names and a reference to the record of the appointment of their fiduciaries;

tated persons, and if so, the names and a reference to the record of the appointment of their fiduciaries;

(f) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and

(g) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Trustee*—A petition by a trustee to sell real property at public sale, under Section 7792 of the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

(a) how title was acquired to the property which is the subject of the petition, including the date and place of probate of the will, or recording of the deed;

(b) that the trustee is not otherwise authorized to sell by the Probate, Estates and Fiduciaries Code, or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale, stating the reason;

(c) a recital of the relevant provisions of the will or deed pertaining to the real property to be sold, and of the relevant history of the trust;

(d) the names and relationships of all interested parties, a brief description of their respective interests, and whether any of them are deceased, minors, or incapacitated persons, and if so, the names and a reference to the record of the appointment of their fiduciaries;

(e) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and

(f) sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

(3) *Guardian*—A petition by a guardian of a minor's estate to sell real property at public sale, under Section 5155(1) of the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

(a) the age of the ward;

(b) the names of the ward's next-of-kin and the notice given them of the presentation of the petition. When there are no known next-of-kin who are sui juris to whom notice may be given, public notice in accordance with Del.Co.O.C. Rule 5.10C, must be given and proofs thereof must be attached to the petition as an exhibit;

(c) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(d) a recital of the provisions of the will or deed relating to the real property to be sold;

(e) the nature and extent of the interest of the ward, and of other persons with an interest, if any, in the real property;

(f) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and

(g) sufficient facts to enable the court to determine that the proposed sale will be in the best interest of the ward.



**Del.Co.O.C. Rule 5.10B. Public Sale, Exhibits.**

The following exhibits shall be attached to a petition by a personal representative, trustee or guardian, to sell real property at public sale:

- (1) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;
- (3) consent by any mortgagee whose lien would otherwise not be discharged by the sale; and
- (4) an affidavit as to value by one real estate appraiser.

**Del.Co.O.C. Rule 5.10C. Notice.**

After the allowance of a petition for public sale of real property, notice of the public sale shall be given:

- (1) by advertisement once a week for three (3) consecutive weeks in the *Delaware County Legal Journal* and in one other newspaper of general circulation in Delaware County in the vicinity of the subject property; and by posting notice on the premises and three (3) additional notices in the immediate vicinity of the premises to be sold; and
- (2) by personal notice or certified mail to all interested parties of the time and place of the proposed sale at least twenty (20) days prior thereto; or
- (3) by such other notice as the Court may by special order direct.

**Del.Co.O.C. Rule 5.10D. Security.**

On the return day of the sale, the Court in the decree approving or confirming the public sale, will fix the amount of bond or additional security which the personal representative, trustee, or guardian shall be required to enter, or will be excused from entering additional security.

**Del.Co.O.C. Rule 5.11A. Exhibits.**

The following exhibits shall be attached to a petition by a fiduciary to sell real estate at private sale:

- (1) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;
- (3) consent by any mortgagee whose lien would otherwise not be discharged by the sale, or if not attached, the reason therefore;
- (4) a copy of the agreement of sale.

**Del.Co.O.C. Rule 5.11B. Procedure on Day Fixed for Approval.**

(1) *Private Sale.* Whenever prior to or on the day fixed for approval of a private sale an additional bona fide offer(s) is received by the petitioner, the additional bona fide offer(s) and the petitioner's recommendation as to which offer for sale should be approved shall be submitted to the Court for consideration.

(2) *Private Exchange.* The procedure in the event another person appears on the day fixed for approval of an exchange, for the purpose of offering different consideration, shall be as the Court directs by special order.

**Del.Co.O.C. Rule 5.11C. Security.**

The Court, in the decree approving or confirming the private sale, will fix the amount of bond or additional

security which the fiduciary shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

**Del.Co.O.C. Rule 5.12A. Additional Requirements.**

(1) *Exhibits.* There shall be attached to a petition to mortgage or lease property, where applicable:

- (a) a copy of the will, deed or decree by which the fiduciary was appointed;
- (b) consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent;
- (c) a written statement by the proposed mortgagee indicating a commitment to grant the mortgage loan; and
- (d) an appraisal by a real estate appraiser of the real property on which the proposed mortgage is to be secured.

(2) *Security.* The amount of the bond or initial security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the proposed mortgage.

**CHAPTER VII****Del.Co.O.C. Rule 7.1A. Pretrial Conference.**

(1) In any action, the Court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

- (a) the simplification of issues;
- (b) the necessity or desirability of pleadings and/or amendments thereto;
- (c) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (d) limitations on the number of expert witnesses;
- (e) the advisability of a preliminary referral of issues to a master for findings to be used as evidence when the trial is to be by jury; and
- (f) such other matters as may aid in the disposition of the action.

(2) The Court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order, when entered, shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

**Del.Co.O.C. Rule 7.1B. Practice as to Depositions, Discovery, Production of Documents and Perpetuation of Testimony.**

(1) Leave to take depositions, or to perpetuate testimony, or to obtain discovery or the production of documents, may be granted only on petition upon cause shown, except upon agreement of parties and counsel, or except when such depositions, perpetuation of testimony or other discovery tools are required by statute or rule (e.g., in a guardianship proceeding).

(2) Petitions filed pursuant to this Del.Co.O.C. Rule 7.1B shall include a description of all efforts made to resolve discovery issues informally. Petitions shall also state the identity of the persons who are to be deposed, the testimony that is to be perpetuated, the documents that are to be produced, and a description of any other discovery requested. The petition shall also state the



reasons why the aforementioned discovery is necessary and relevant to the litigation.

**Del.Co.O.C. Rule 7.2A. Procedure for Motions for Judgment on the Pleadings.**

(1) Motion for Judgment on the Pleadings may be accompanied by a memorandum of law in support thereof.

(2) Service shall be made in conformity with Pa.O.C. Rule 4.3.

(3) All such motions shall be accompanied by a notice, plainly appearing on the face thereof, of the date the motion was filed with the Clerk and advising that a reply memorandum of law may be filed within twenty (20) days from that date. The moving party shall also file with this motion a certification of service in conformity with Pa.R.C.P. 405(b). This certification shall state that the notice required by this Del.Co.O.C. Rule 7.2A has been given.

(4) Upon receiving the record papers, the Clerk shall then refer the matter to the appropriate judge. All requests for an extension of the prescribed time in which to answer such motions must be approved by the Court. Such approval shall be sought by a letter addressed to the Clerk. No agreement entered into solely by the parties will be honored by the Court.

(5) If no memoranda are filed with regard to this motion, the Court may dispose of the matter without such memoranda.

(6) If any matter is settled or withdrawn prior to disposition, the Clerk shall be promptly advised, and the moving party shall file an appropriate praecipe with the Clerk.

(7) The Court, in its discretion, may grant additional time in which to file a reply memorandum, request additional memoranda, or call for oral argument, or advance the time for filing.

**Del.Co.O.C. Rule 7.3A. Procedure for Motions for Summary Judgment.**

(1) Motion for Summary Judgment may be accompanied by a memorandum of law in support thereof.

(2) Service shall be made in conformity with Pa.O.C. Rule 4.3.

(3) All such motions shall be accompanied by a notice, plainly appearing on the face thereof, of the date the motion was filed with the Clerk and advising that a reply memorandum of law may be filed within thirty (30) days from that date. The moving party shall also file with this motion a certification of service in conformity with Pa.R.C.P. 405(b). This certification shall state that the notice required by this Del.Co.O.C. Rule 7.3A has been given.

(4) Upon receiving the record papers, the Clerk shall then refer the matter to the appropriate Judge. All requests for an extension of the prescribed time in which to answer such motions must be approved by the Court. Such approval shall be sought by a letter addressed to the Clerk. No agreement entered into solely by the parties will be honored by the Court.

(5) If no memoranda are filed with regard to this motion, the Court may dispose of the matter without such memoranda.

(6) If any matter is settled or withdrawn prior to disposition, the Clerk shall be promptly advised, and the moving party shall file an appropriate praecipe with the Clerk.

(7) The Court in its discretion may grant additional time in which to file a reply memorandum, request additional memoranda, or call for oral argument, or advance the time for filing.

**CHAPTER IX**

**Del.Co.O.C. Rule 9.1A. Local Rule as to Notice.**

Auditors and masters shall give reasonable notice of hearings to be held by them to all interested parties or to their attorneys of record in the manner provided in Pa.O.C. Rule 4.3.

**Del.Co.O.C. Rule 9.6A. Notice and Objections.**

An auditor or master shall give notice of the filing of the auditor's or master's report to all parties of record. Any interested party shall have the right to file objections to such report within ten (10) days of the date of such report or within such other time period directed by the auditor or master. If any objection is filed, the matter shall be set for argument at the time and place directed by the auditor or master, and with such notice to parties in interest or their counsel of record as the auditor or master directs.

**Del.Co.O.C. Rule 9.7A. Decree.**

If no objection is filed within the period expressed in Del.Co.O.C. Rule 9.6A, the Court may enter a decree confirming the auditor's report or adopting the master's report.

**CHAPTER X**

**Del.Co.O.C. Rule 10.2A. Petition Practice.**

(1) All Pleadings, Petitions, Citations, and Responsive Pleadings, as well as Preliminary and Final Decrees, shall be captioned: "In the Office of the Register of Wills of Delaware County, PA."

(2) Delaware County Local Rules established for PA Orphans' Court Rule 3.4 shall apply for practice before the Register of Wills.

(3) All Preliminary/Final Decrees and Citations that are filed with a pleading shall contain the wording, "By the Register" at the bottom of the Decree/Citation for the Register of Wills' signature.

(4) The procedure for rules to show cause shall be as provided in Pa.R.C.P. 206.4, et seq., as well as Del.Co.O.C. Rules 10.2A(1) and 10.2A(3).

(5) Del.Co.O.C. Rules 3.5A, 3.5B, and 3.12A shall apply to practice before the Register of Wills.

(6) Counsel who has entered an appearance before the Register of Wills as provided in Pa.O.C. Rule 1.7(a) shall not be permitted to withdraw without filing a petition to withdraw and obtaining the Register's permission, unless co-counsel, if any, will continue representing the party or there is a simultaneous entry of appearance by other counsel that will not delay the proceedings.

**CHAPTER XIV**

**Del.Co.O.C. Rule 14.2A. Format and Rules for Guardianship Filings.**

(1) The practice and procedure for guardianship matters follows that set forth in the Pa.O.C. Rules, with additional elements to reflect the purpose and practice of 20 Pa.C.S. Chapter 55, as generally described in these Local Rules for Chapter XIV of the Pa.O.C. Rules.

(2) The general format for petition practice and pleading for guardianship matters shall be as outlined in Chapter III of the Pa.O.C. Rules and related Del.Co.O.C.

Rules, with modifications necessary to fulfill the statutory purposes of 20 Pa.C.S. Chapter 55, including, without limitation thereto:

- (a) Pa.O.C. Rule 3.3 shall be followed as applicable;
- (b) the applicable petition content described in Pa.O.C. Rule 3.4(a) shall be supplemented by the required petition content described in 20 Pa.C.S. § 5511;
- (c) consent of the proposed guardian, if any, shall be attached to the petition;
- (d) service of the citation is by personal service as set forth in 20 Pa.C.S.A. § 5511; the requirement for additional service of a citation by first class mail, Del.Co.O.C. Rule 3.5A(2), does not apply to this type of service;
- (e) the time period for rescheduled proceedings in Pa.O.C. Rules 3.5(a)(5) may be modified by the court as appropriate to the circumstances;
- (f) the notice to plead described in Pa.O.C. Rule 3.5(b) shall be modified to reflect the guardianship proceeding and the notice shall include copies of the Citation with Notice and the Preliminary Decree with hearing date, and a description of the proceedings; and
- (g) objections and responsive pleadings may be presented within twenty (20) days from the date of notice and prior to the scheduled hearing.

(3) Notice to U.S. Department of Veterans Affairs. Consult 20 Pa.C.S. § 8411 regarding notice to the United States Department of Veterans Affairs, or its successor, upon filing of a petition for guardianship where benefits of compensation or insurance or other gratuity is payable to or for the alleged incapacitated person by that agency.

#### **Del.Co.O.C. Rule 14.2B. Testamentary Writings.**

All testamentary writings of the incapacitated person found by the guardian or in the possession of any other person shall at the time of the filing of the inventory be submitted by the guardian or such other person to the Court for its inspection, together with a photographic type copy to be retained by the Judge for his private file.

**Committee Comment:** Neither the will nor a copy thereof nor any description of its provisions should be permitted to become part of a file available for public inspection. See *Widener Estate*, 437 Pa. 294 (1970).

#### **Del.Co.O.C. Rule 14.2C. Allowances from Incapacitated Persons' Estates.**

(1) *Petitions.* Petitions for allowances from an incapacitated person's estate or for the payment of counsel fees shall set forth:

- (a) the name of the guardian, the date of his appointment; if the petitioner is not the guardian, his relationship to the incapacitated person, and, if not related, the nature of his interest;
- (b) a summary of the inventory, the date it was filed, and the nature and present value of the estate;
- (c) the address and the occupation, if any, of the incapacitated person;
- (d) the names and addresses of the incapacitated person's dependents, if any;
- (e) a statement of all claims of the incapacitated person's creditors known to petitioner; and
- (f) a statement of the requested distribution and the reasons therefor, and a statement of all previous distributions allowed by the court.

(2) *Notice to U.S. Department of Veterans Affairs.* If any portion of the incapacitated person's estate is received from the United States Department of Veterans Affairs or its successor, notice of the request for allowance shall be given to that agency.

#### **Del.Co.O.C. Rule 14.2D. Certification.**

(1) In any petition filed pursuant to 20 Pa.C.S. § 5511, counsel for petitioner shall file with the Clerk at least seven (7) days prior to the hearing a Certification that provides the following information to the best of counsel's knowledge, information and belief:

- (a) whether counsel has been retained by or on behalf of the alleged incapacitated person;
- (b) whether the issue of capacity is or is not contested;
- (c) whether the testimony on the issue of capacity shall be presented in one or more of the following manners:
  - (i) written interrogatory;
  - (ii) videotape deposition;
  - (iii) live testimony in court;
- (d) whether the issue relating to the choice of guardian is contested; and
- (e) whether the alleged incapacitated person will or will not be present at the hearing pursuant to 20 Pa.C.S. § 5511(a)(1) and (2).

(2) Information regarding the advisability of appointment of a guardian or attorney ad litem for the alleged incapacitated person may be provided to the Court for action by the Court with this filing or at another time as appropriate under the circumstances.

(3) Forms for this Certification are available online as described in Del.Co.O.C. Rule 14.5A(1).

**Note:** Counsel is advised to carefully review the requirements of 20 Pa.C.S. § 5511 in completing the Certification required.

#### **Del.Co.O.C. Rule 14.2E. Testimony.**

(1) Testimony of a person qualified to evaluate relevant incapacities of the alleged incapacitated person is required for the hearing on incapacity (20 Pa.C.S. § 5518).

(a) In contested matters, medical or psychological testimony may be provided by written interrogatory, videotape deposition, or live testimony in court, as agreed to by the parties, with adequate notice provided. No petition to the Court is required with agreement of the parties.

(b) In uncontested matters, the medical or psychological testimony may be provided via verified written interrogatories. No petition to the Court is required. Forms of such written interrogatories approved by the court are available at the Office of the Clerk of the Orphans' Court or online as described in Del.Co.O.C. Rule 14.5A(1).

#### **Del.Co.O.C. Rule 14.3A. Accounts and Distribution.**

The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets comprising the estate, shall conform with the practice and procedure governing accounts in Chapter II of the Pa.O.C. Rules and related Del.Co.O.C. Rules.

#### **Del.Co.O.C. Rule 14.5A. Forms.**

(1) Please refer to forms on the website for the Delaware County Government (<http://www.co.delaware.pa.us/documentcenter.html>), Orphans' Court forms. Mandatory state-prescribed Orphans' Court forms listed in Pa.O.C.

Rule 14.5 must be used verbatim. When using other local forms, filings may be made in substantial compliance with these forms.

(2) The mandatory state form required to be filed under the Pennsylvania Uniform Firearms Act (18 Pa.C.S. § 6105(c)(4)) and the Pennsylvania Mental Health Procedures Act (50 P.S. § 7109(d)) within seven (7) days of adjudication of incapacity, is available from the Clerk of the Orphans' Court or online as described in (1) immediately above.

[Pa.B. Doc. No. 16-1299. Filed for public inspection July 29, 2016, 9:00 a.m.]

## FRANKLIN AND FULTON COUNTIES

### Amended Local Rules for the Orphans' Court of the 39th Judicial District; Rule 39-2.6 Time for Filing Accounts and Rule 39-2.7 Time for Filing Objections

#### Order of Court

*And Now* this 18th day of July, 2016;

*It Is Hereby Ordered That* local Orphans' Court Rules 39-2.6 and 39-2.7 shall be amended and adopted.

*It Is Further Ordered* that the District Court Administrator shall:

1. File one (1) certified copy of this amended Administrative Order with the Administrative Office of Pennsylvania Courts;

2. Submit two (2) certified paper copies of this amended Administrative Order and a copy on a computer diskette or CD-ROM to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* by 12:00 p.m., Wednesday, July 20, 2016.

3. Keep a copy of this amended Administrative Order continuously available for inspection and copying in the Office of the Orphans' Court Clerk in both Fulton and Franklin Counties and in the Franklin County and Fulton County Law Libraries.

4. Publish a copy for continuous and free access to the public on the Courts or Judicial Section of the franklin county pa.gov and www.co.fulton.pa.us websites as of September 1, 2016.

5. File a copy with the Orphans' Court Rule Committee for the 39th Judicial District and arrange to have the local rule changes published on the Franklin County Bar Association web site at www.franklinbar.org.

39th Jud. Dist. R.O.C. No. 39-2.6 and 39-2.7 as amended shall be effective September 1, 2016.

*By the Court*

CAROL L. VAN HORN,  
*President Judge*

#### Rule 39—Local Rules of the Orphans' Court.

**Rule 39-2.6.**—All accounts shall be filed with the Clerk no later than 35 days prior to the date regularly scheduled for account confirmation by the Court.

**Rule 39-2.7.**—Objections to an account and/or a petition for adjudication/statement of proposed distribution shall be filed with the Clerk no later than 4:30 PM on the day preceding the date of confirmation unless the time is extended by the Court. Whenever the day preceding the

date of confirmation is a legal holiday by the laws of the Commonwealth of Pennsylvania or the United States, objections shall be filed no later than 4:30 PM on the last day of business prior to the date set for confirmation.

[Pa.B. Doc. No. 16-1300. Filed for public inspection July 29, 2016, 9:00 a.m.]

## LACKAWANNA COUNTY Local Orphans' Court Rules Effective September 1, 2016

### CHAPTER I PRELIMINARY RULES

#### Rule 1.6(1). Mediation.

(a) All Interested Parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all Interested Parties as an order or decree of the Court.

(b) All Interested Parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter by petition before the Court.

(c) In such request for mediation, all Interested Parties shall identify:

(1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) Names and contact information of all Interested Parties and any counsel who shall participate in the mediation;

(3) Names and information regarding any Interested Party having diminished capacity or a legal disability, whose interests must be adequately protected; and

(4) The scheduled date for the initial mediation conference.

(d) All Interested Parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(e) Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court Hearings, unless specifically requested by joinder of the Interested Parties and so ordered by the Court.

(f) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.

(g) Upon completion of mediation, all Interested Parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(h) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L.1125, No.169 (35 P.S. §§ 10225.101—10225.5102), as maybe amended.



(i) The Interested Parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The Interested Parties may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the Interested Parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

**Rule 1.7(1). Entry and Withdrawal of Counsel.**

(a) Attorneys who are not admitted to practice before the Supreme Court of Pennsylvania shall not be permitted to enter an appearance or to file an account or any other Legal Paper in any matter, except as an associate of any attorney so admitted or so listed or by special leave of Court. Admissions pro hac vice shall be upon motion of a member of the bar of the Supreme Court of Pennsylvania.

(b) The Register of Wills shall not practice as an attorney before the Orphans' Court Division.

**Rule 1.9(1). Index of Proceedings.**

The Clerk shall assign to each new matter a file number, starting with No. 1 at the beginning of each calendar year and consecutively thereafter. The file number and year and the name of the matter shall be included in the caption of all papers filed in Court or in the Clerk's office.

**Rule 1.10(1). Computation of Time.**

(a) When any period of time is referred to in any rule, such period in all cases shall be so computed as to exclude the first and include the last day of such period.

(b) Whenever the last day of any such period shall fall on a Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

(c) Whenever in any rule or Act of Assembly providing for the publishing of notices, the phrase "successive weeks" is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

**Rule 1.11(1). Legal Publication.**

The *Lackawanna Jurist* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly or by rule or order of Court.

**Rule 1.12(1). Sureties.**

(a) *Individual Sureties.* Individuals proposed as sureties on bonds of fiduciaries shall make an affidavit on the printed form supplied by the Clerk, setting forth the facts required thereby. Such affidavit shall be filed together with the bond when that is filed for approval. No attorney of this or any other Court nor employee of this Court shall act as surety in any proceeding in this Court, except by leave of Court.

(b) *Corporate Sureties.* Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk.

**Rule 1.12(2). Corporate Fiduciaries; Approval Security.**

(a) *In General.* Corporations having fiduciary powers and authorized to do business in this Commonwealth may act as fiduciaries in matters pending in the Court; provided that, upon request of an Interested Party, a current certificate evidencing the approval of the state banking department or a certified copy of the certificate from the Federal Reserve Board granting the right to exercise fiduciary powers shall be filed with the Clerk or Register.

(b) *Security.* Except when required by statute or for special cause shown, a bond will not be required of an authorized corporate fiduciary.

**Rule 1.13(1). Depositories of the Court.**

(a) All moneys and securities which heretofore have been or shall hereafter be directed to be paid or delivered into Court shall, upon the receipt thereof by the Clerk, be immediately deposited by him or her in such bank or trust company in Lackawanna County as shall be designated by the Court, to the credit of the Court in the particular estate or proceeding to which the same may belong; and, said depository shall keep a separate account of each of said payments and deliveries, designating the same by the name of the particular estate or proceeding. Interest on said deposit, if any be paid, shall inure to the benefit of those entitled to the principal, unless otherwise directed by the Court.

(b) No money shall be paid out or securities delivered by said depository, except on the checks or orders of the Clerk, countersigned by the judge of this Court, and accompanied by a certificate endorsed on the check or order under the hand of the Clerk and the seal of the Court, that the money or property was ordered to be paid or delivered.

(c) The Clerk shall, not later than the first day of March of each year, present to the Court a statement on which shall be listed the accounts in all estates or proceedings as to which moneys or securities have been deposited pursuant to this rule, showing the receipts and disbursements, if any, during the preceding calendar year, and the balances, if any, of funds and securities in the respective accounts at the end of the calendar year. This statement shall be accompanied by a certificate of each depository as to the balances of the respective accounts at the end of the preceding calendar year.

**CHAPTER II ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS**

**Rule 2.1(1). First Complete Advertisement.**

"First complete advertisement" means when the original grant of letters has been advertised, on at least one occasion, in both a newspaper of general circulation and in the *"Lackawanna Jurist"*.

**Rule 2.5(1). Contents of Notice.**

(a) The notice shall set forth:

(1) that the account has been filed with the Clerk of the Orphans' Court Division;

(2) that objections to the account may be made at any time prior to the day set forth for submission by the Clerk of the account to the Court by filing such objection in writing with the Clerk;



(3) that the account will be submitted to the Court on the \_\_\_\_\_ day of \_\_\_\_\_ (the last Tuesday of January, March, May, July, September, or November) and final confirmation thereof and an adjudication or decree of distribution may be entered if written objections thereto are not filed with the Clerk prior to that date;

(4) a statement that, if the person notified does not agree with the accountant's interpretation, he or she must appear at the hearing on the audit in person or by counsel to present his or her contention, otherwise his or her failure to appear may be construed by the Court that he or she is in agreement with the accountant's interpretation.

**Rule 2.6(1). Required Exhibits.**

No account shall be accepted for filing and advertisement unless accompanied by the applicable Supreme Court-approved petition for adjudication/statement of proposed distribution, all the exhibits required by such petition/statement, and the following:

- (a) Checklist;
- (b) Releases and consents as required or as desired by the accountant to be attached for filing;
- (c) Legal description of real estate to be distributed in kind; and,
- (d) Copies of all agreements in respect to settlements and compromises.

**Rule 2.6(2). Submissions of Additional Documents.**

In addition to the information and exhibits filed with the petition for adjudication, the accountant or his or her counsel may also submit to the Court for consideration as evidence any additional documents which the accountant thinks would be necessary or relevant for the Court's consideration. (For example, this should include an entire trust document from which the relevant excerpts appear in the petition for adjudication.)

**Rule 2.6(3). Advertising of Accounts.**

The Clerk shall, commencing on the first Friday of January, March, May, July, September, or November, advertise for two (2) consecutive weeks all accounts filed with the Clerk prior to that day and on or after the last advertisement date. The advertisement required by this rule shall list the name of the estate, the name and capacity of the accountant, and the name of counsel for the accountant. The advertisement shall state in substance:

The following accounts have been filed and may be examined in the Clerk of the Orphans' Court office. If you desire to object, the same may be accomplished by filing that objection in writing with the Clerk prior to \_\_\_\_\_ the day of \_\_\_\_\_, \_\_\_\_\_. The account will be filed by the Clerk with the Orphans' Court for adjudication and confirmation on Tuesday, the \_\_\_\_\_ day of \_\_\_\_\_ and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

**Rule 2.6(4). Submission to Court.**

The Clerk, on the last Tuesday of January, March, May, July, September, and November, shall submit to the Court all advertised accounts and petitions for adjudication, together with the certificate and evidentiary documents, to which no objection has been filed or hearing requested or required. The Court shall audit those accounts and may then confirm the account finally, order a hearing, or enter any adjudication, decree, order, or award directing

distribution as law and justice may require. The Clerk shall also, on that date, prepare and deliver to the Court a list of all advertised accounts to which a hearing has been requested or is required or to which any objection has been filed. A hearing will then be scheduled in regards to those accounts as the Court by special rule or general order may direct.

Notice of such hearing shall be given to all counsel of record and to such other persons as the Court may direct.

**Rule 2.7(1). Time of Filing.**

Objections to accounts and/or statements of proposed distribution may be made at any time prior to the day set forth for submission by the Clerk of the account to the Court by filing such objection in writing in the Clerk's office.

**Rule 2.9(1). Schedules of Distribution.**

(a) *Filing.* The Court, when it appears advisable or when requested, may direct the attorney for the accountant to prepare and file a schedule of distribution. Schedules shall be certified by the attorney for the accountant to be correct and in conformity with the adjudication, and shall be filed with the Clerk. When a schedule is approved in writing by Interested Parties, the attorney for accountant shall also certify whether or not such parties constitute all of those affected thereby.

(b) *Confirmation.* If no objections are filed by the twentieth day after the schedule was filed, it will be confirmed, as of course. Schedules approved in writing by all Interested Parties affected thereby will be confirmed, as of course, on the day filed. Thereupon, the accountant shall have authority to make necessary assignments and transfers of any assets awarded in kind.

(c) *Partial Confirmation.* Where the matters which are the subject of a schedule of distribution are so separate and distinct that an objection to any of them, whether sustained or dismissed, cannot affect the others, the confirmation of such schedule shall not be suspended except to the extent of the objection. Distribution may proceed as to all other matters and the usual process to enforce it may issue.

**Rule 2.9(2). Schedules of Distribution—Notice of Filing, Time, Method, and Return.**

(a) *When Notice Given and Contents Thereof.* Notice of filing the schedule of distribution shall be given to all Interested Parties affected thereby who do not submit with it their written approval or the written approval of their attorneys. Where the schedule contains items of additional receipts or disbursements not included in the adjudication and/or a revaluation of any assets, the notice shall so state.

(b) *Time and Method of Notice.* Written notice shall be given no later than the day of the filing of the schedule by letter addressed to the last known addresses of all Interested Parties or their attorneys.

(c) *Return of Notice.* At the time of filing of the schedule, the attorney for the accountant shall file a written certification that due notice of the filing thereof was given as required by these rules, to which certification shall be attached a copy of said notice, as well as the names and addresses of all Interested Parties notified or their attorneys.

**Rule 2.9(3). Objections to Schedules of Distribution.**

(a) *Time of Filing and Content.* Objections to schedules of distribution shall be filed with the Clerk and may not be filed later than the twentieth day after the schedule

was filed, unless said period of twenty (20) days is extended by the Court. Such objections may raise questions relating only to the schedule itself and shall in no event raise questions which were or could have been raised previously, by claims, or by objections to the account or petition for adjudication. Objections to schedules shall be in writing, numbered consecutively, signed by the objector or his or her attorney, and each objection shall

(1) be specific as to description and amount;

(2) raise but one issue of law or fact, but if there are several objections to items included in or omitted from the schedule relating to the same issue, all such objections shall be included in the same objection; and

(3) set forth briefly the reason or reasons in support thereof.

(b) *Notice of Filing.* Notice of filing of objections to the schedule of distribution shall be given to the accountant and to all Interested Parties affected thereby or their attorneys.

(c) *Time and Method of Notice.* Written notice shall be given no later than the day of the filing of the objections to the schedule by letter addressed to the last known address of accountant and all Interested Parties affected thereby or their attorneys. A copy of the objections shall be included with the notice to the accountant or his or her attorney.

(d) *Return of Notice.* At the time of the filing of the objections, the attorney for the objector shall file a written certification that due notice of the filing thereof was given as required by these rules to which certification shall be attached a copy of said notice, as well as the names and addresses of all Interested Parties notified or their attorneys.

#### **Rule 2.10(1). Unknown Distributee.**

If it appears that the identity or whereabouts of a distributee is unknown or there are no known heirs, a written report verified by affidavit of the fiduciary or his or her counsel setting forth:

(a) the nature of the investigation made to locate the heirs of the decedent, in complete detail; and,

(b) in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

### **CHAPTER III PETITION, PRACTICE AND PLEADING**

#### **Rule 3.2(1). Pleadings.**

The pleadings in matters before the Orphans' Court Division shall be limited to a petition, an answer, a reply, preliminary objections, motion for judgment on the pleadings, and motion for summary judgment.

### **CHAPTER V RULES GOVERNING SPECIFIC TYPES OF PETITIONS**

#### **Rule 5.5(1). Time of Filing Report.**

The decree appointing a guardian ad litem or a trustee ad litem shall specify the time within which said guardian or trustee shall file a report.

#### **Rule 5.6(1). Allowance of Counsel Fee from Minor's Estate.**

A petition for the allowance of a counsel fee from a minor's estate shall include a statement of counsel setting

forth in detail the nature and extent of the services performed by him. Twenty (20) days notice of the presentation of such petition shall be given to the guardian, minor, both parents or surviving parent if whereabouts are known or if both parents are deceased or whereabouts unknown, the adult person with whom the minor resides or the superintendent or other official in charge of the institution having custody of the minor, and in all cases of a married minor, the minor's spouse if the whereabouts of such spouse is known.

#### **Rule 5.10(1). Notice.**

After the allowance of a petition for public sale of real property, notice of the public sale shall be given:

(a) by advertisement once a week for three consecutive weeks in the "*Lackawanna Jurist*" and in a newspaper of general circulation in Lackawanna County;

(b) by personal notice or certified mail to all Interested Parties of the time and place of the proposed sale at least twenty (20) days prior thereto; or

(c) by such other notice as the Court may by special order direct.

#### **Rule 5.11(1). Exhibits.**

The following exhibits shall be attached to a petition by a personal representative, trustee, or guardian to sell real estate at private sale:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed;

(b) any consents or joinders of Interested Parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;

(c) consent by any mortgagee whose lien would otherwise not be discharged by the sale or, if not attached, the reason therefor; and,

(d) a copy of the agreement of sale, if any.

#### **Rule 5.16(1). Fees from Appointments.**

Attorneys, masters, auditors, examiners, trustees in partition, guardians ad litem, or trustees ad litem appointed by the Court, and paid by the County of Lackawanna, shall present a petition to the Court for approval of their fees and file the petition and order approving fees with the Clerk prior to submission to the Court Administrator's office for payment.

### **CHAPTER VII RULES RELATING TO PREHEARING AND HEARING PROCEDURES**

#### **Rule 7.1(1). Depositions, Discovery, Production of Documents and Perpetuation of Testimony.**

To the extent not provided for by order of Court in a particular matter, the practice relating to depositions, discovery, production of documents, perpetuation of testimony, and perpetuation of Court records shall conform to the practice in the Civil Division of the Lackawanna County Court of Common Pleas.

#### **Rule 7.5(1). Motion Court.**

(a) Motions will be heard in accordance with the direction of the President Judge, but not less than three times per week. The schedule for Motion Court shall be maintained by the Court.

(b) All petitions, motions and matters, not otherwise regulated by these rules, must be presented at the call of the motion list, unless the Court allows otherwise.

(c) Counsel shall enter their appearance in the motion book and they shall be called according to the sequence in which they appear on the motion book.

**Rule 7.5(2). Pre-Hearing/Trial Conference.**

(a) In any action, the Court, on its own motion or motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

- (1) Simplification of the issues;
- (2) The necessity or desirability of pleadings and/or amendments thereto;
- (3) The possibility of obtaining admissions of fact regarding documents which will avoid unnecessary proof at the time of trial;
- (4) Limitation of the number of witnesses;
- (5) The possibility of referring preliminary matters to a master for findings of fact to be used as evidence when trial is to be by jury; and
- (6) Such other matters as may aid in the disposition of the action.

(b) The Court may enter an order reciting the action taken during the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action, unless modified at the time of hearing or trial to prevent manifest injustice.

**CHAPTER IX AUDITORS AND MASTERS**

**Rule 9.1(1). Notice.**

Auditors and masters shall give at least twenty (20) days notice of hearings held by them to all Interested Parties or to their attorneys of record in the manner provided in Pa.O.C. Rule 4.2. Notice of succeeding hearings given by the auditor or master at a hearing of which proper notice had been given shall constitute sufficient notice of each such succeeding hearing.

**Rule 9.6(1). Notice and Objections.**

An auditor of master shall give notice of the filing of the report to all parties of record. Any Interested Party shall have the right to file objections to such report within twenty (20) days after the date of filing or the date of notice, whichever occurs later. If any objection is filed, the matter shall be set for argument by the Court. Counsel obtaining the argument date shall give opposing counsel at least twenty (20) days notice of said argument date. Briefs shall be furnished to the Court and exchanged between counsel at least twenty-four (24) hours prior to the argument.

**Rule 9.7(1). Decree.**

If no objection is filed within the period provided in Lacka.Co.O.C.R. 9.6(1), the Court may either enter a decree confirming the auditor's report or adopting the master's report.

**CHAPTER X REGISTER OF WILLS**

**Rule 10.6(1). Fee for Delinquent Filing.**

Any party who fails to file a Status Report within ten (10) days after written notice of delinquency shall pay a fee for delinquency to the Clerk in conformity with the fee schedule published by the Court.

[Pa.B. Doc. No. 16-1301. Filed for public inspection July 29, 2016, 9:00 a.m.]

**LANCASTER COUNTY**

**Adoption of Rules of Orphans' Court; 2016-1570**

*And Now*, this 20th day of July, 2016, after obtaining approval from the Orphans' Court Procedural Rules Committee, the Lancaster County Court of Common Pleas hereby adopts the following Lancaster County Rules of Orphans' Court which shall be effective September 1, 2016:

**Rule 1.1. Short Title and Citation.**

These Rules shall be known as the Lancaster County Rules of Orphans' Court and may be cited as "L.C.R.O.C. . . ."

**Rule 1.3. Definitions.**

"*Lancaster County Orphans' Court Business Court*"—Lancaster County Orphans' Court shall hold Orphans' Court Business Court weekly in the Lancaster County Courthouse at 50 North Duke Street, Lancaster, Pennsylvania. The District Court Administrator shall publish notice of the location, dates and times of Orphans' Court Business Court in the weekly courtroom schedule. See also L.C.R.O.C. 1.9.

**Rule 1.6. Mediation by Agreement, Local Rule or Court Order.**

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a pleading before the Court, including an Account filed by a fiduciary for audit.

(b) Upon the filing of a pleading before the Court, including an Account filed by a fiduciary for audit, the Clerk may provide the filing party with generic information, regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.

(c) The filing party may provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure or reliable Internet resources, should include:

1. A brief description of the mediation process;
2. The anticipated benefits of mediation for litigants and associated professionals; and
3. Contact information to initiate mediation.

(d) All the interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.

(e) In such request for mediation, all interested parties shall identify:

1. The proposed mediator, the qualifications of the mediator and the proposed source of payment of fees and costs of the mediator;
2. Names and contact information of all interested parties and any counsel who shall participate in the mediation;
3. Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and



4. The scheduled date for the initial mediation conference.

(f) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(g) Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

(h) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.

(i) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(j) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L. 1125, No. 169 (34 P.S. §§ 10225.101—10225.5102), as may be amended.

(k) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

#### **Rule 1.9. Orphans' Court Business Court.**

(a) *Purpose of Rule.* It is the intention of this Rule that Orphans' Court practice utilize Orphans' Court Business Court to ensure the expedited and streamlined management of all cases.

(b) Orphans' Court Business Court shall be held weekly. Matters not resolved at a particular Orphans' Court Business Court may be continued to another Orphans' Court Business Court date or other event to be scheduled by the Court.

#### **Rule 2.5(d). Notice of Account Filing.**

(1) All accounts shall be listed on the Audit List by the Clerk.

(2) The Audit List will be called for audit in accordance with Local Orphans' Court Rule 2.6.

#### **Rule 2.6. Filing with the Clerk.**

All Accounts shall be filed with the clerk.

(a) The Audit List will be called on the first Tuesday of every month. When that Tuesday falls on a holiday, the Audit List will be called on the first Wednesday of that month.

(b) Accounts to appear on a particular Audit List must be filed not later than noon of the third Wednesday preceding the session of Court when that Audit List will be called. When that Wednesday falls on a holiday, accounts must be filed not later than noon of the preceding business day.

#### **Rule 3.5(b)(1). Notice Practice.**

The notice to plead shall also include the following:

This matter is returnable to Orphans' Court Business Court on the \_\_\_ day of \_\_\_\_\_, 201\_\_ in Courtroom \_\_\_ of the Lancaster County Courthouse, 50 North Duke Street, Lancaster, Pennsylvania. All counsel or unrepresented parties must appear.

#### **Rule 3.5(d). Rule to Show Cause Practice.**

(1) In all cases where personal jurisdiction is not required or had been previously obtained, or conferred by statute, and not addressed by any Pa.O.C. Rules or L.C.R.O.C., the petitioner may seek the entry of a rule to show cause.

(2) The issuance of a rule to show cause shall be discretionary with the Court.

(3) The petition shall be filed with the Clerk or presented in Orphans' Court Business Court and petitioner shall affix to the petition a proposed order substantially in the following form:

#### **Rule**

Upon consideration of the attached petition, it is hereby ordered that:

1. A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested.

2. The matter shall be returnable to Orphans' Court Business Court, Courtroom \_\_\_\_\_, Lancaster County Courthouse at 9:00 a.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_. The respondent shall file an answer to the petition on or before that date.

3. The petitioner shall provide notice of the entry of this Order to all parties, at least 20 (twenty) days prior to \_\_\_\_\_, pursuant to Pa.O.C. Rule 4.2.

(4) A certificate of service, listing the names and addresses of those individuals receiving notice of the entry of the rule shall be filed by the petitioner.

(5) If any interested party (whether sui juris or not) is represented by another (including but not limited to attorneys, guardians or agents), the rule and petition shall be served upon the interested party's representative(s) pursuant to Pa.O.C. Rule 4.2.

(6) After the issuance of the rule, the disposition of the matter shall be in accordance with Pennsylvania Rule of Civil Procedure 206.7.

**Explanatory note:** Orphans' Court Business Court is utilized by Lancaster County to manage all pending matters. See L.C.R.O.C. 1.9(a). The Notice and Rule Practices of the County is to return matters to Orphans' Court Business Court for consideration. The dates provided in said Notice and Rules shall be set to be consistent with Pa.O.C. Rule 3.5.

#### **Rule 4.2(e). Citation or Notice to Individuals and Entities.**

The procedure of Pa.O.C. Rule 4.2 (Citation of Notice to Individuals and Entities) shall include Rules to Show Cause under L.C.R.O.C. 3.5(d).



**Rule 7.1. Depositions, Discovery, Production of Documents and Perpetuation of Testimony.**

No discovery or perpetuation of testimony is permitted except by petition for leave of Court or by agreement of the parties.

(a) A petition shall set forth the nature of the discovery sought, the reasons why the discovery is necessary and the time period within which discovery is to be completed. Upon receipt of a petition, any other party seeking discovery shall file a petition within five days unless all parties agree to proceed under L.C.R.O.C. 7.1(b).

(b) Parties may request leave of Court to conduct discovery by agreement. The agreement shall be signed by counsel and shall describe the proposed discovery and shall state the time for completion.

*By the Court*

DENNIS E. REINAKER,  
*President Judge*

[Pa.B. Doc. No. 16-1302. Filed for public inspection July 29, 2016, 9:00 a.m.]

**LEHIGH COUNTY****Orphans' Court Rules; File No. AO 20014-0002****Administrative Order**

Now, this 19th day of July, 2016, upon receipt of written notification from the Supreme Court Orphans' Court Rules Committee as required by Pa.O.C. Rule 1.5(e);

*It Is Ordered* that the Local Rules of the Orphans' Court of Lehigh County annexed hereto are adopted as the local rules of the Orphans' Court Division of the Court of Common Pleas of Lehigh County, Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, or September 1, 2016, whichever is later.

*By the Court*

EDWARD D. REIBMAN,  
*President Judge*

J. BRIAN JOHNSON,  
*Administrative Judge*

**LOCAL RULES OF THE ORPHANS' COURT OF LEHIGH COUNTY**

The current website for electronic access to Pa.O.C. Rules and Supreme Court forms is [www.aopc.org](http://www.aopc.org).

Local Rules 1 through 14 herein are effective as of September 1, 2016

Local Adoption Rules are not reprinted here.

**CHAPTER I GENERAL RULES****Rule 1.1-1. Local Rules.**

All local rules adopted by the Orphans' Court Division of the Court of Common Pleas of Lehigh County shall be known as Lehigh County Orphans' Court Rules and shall be cited as "Leh.O.C. Rule \_\_\_\_\_."

**Rule 1.3-1. Additional Definitions.**

(a) "Code" means the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S.A. § 101 et. seq., as amended.

(b) "Rule" means any rule of Court promulgated by the Supreme Court of Pennsylvania or the Orphans' Court Division of the Court of Common Pleas of Lehigh County.

(c) "Except as otherwise provided" means "except as otherwise provided by statute, rule, or special order of this Court".

(d) "Director" means the Director of Orphans' Court Operations.

**Rule 1.7-1. Attorneys. Information.**

Every attorney presenting or filing any paper with the Court or the Clerk shall endorse thereon his or her name, Supreme Court identification number, office address and telephone number.

**Rule 1.8-1. Local Forms.**

Except to the extent of Supreme Court-approved forms, which are to be used exclusively in practice before the Orphans' Court and Register of Wills, and which are available on the website of the Administrative Office of Pennsylvania Courts, from time to time, the Court may approve other forms to facilitate practice and procedure before the Court and such forms are maintained at the Court's website at [www.lccpa.org/orphans](http://www.lccpa.org/orphans).

**CHAPTER II FORMAL FIDUCIARY ACCOUNTS****Rule 2.1-1. Form. Title. Blending. Supplemental Accounts.**

(a) *Title of Accounts.*

(1) All accounts shall be designated consecutively, as the case may be, viz.: First and Partial, Second and Partial, etc.; First and Final, Second and Final, etc.;

(2) Accounts filed after the filing of a final account shall be designated "First (Second, as the case maybe) Supplemental Account to (Title of the original account);

(3) When an account which has been filed is restated in its entirety, it shall carry the title of the original account with the words "As Restated" added;

(4) The titles "Amended" or "Revised Account" shall not be used.

(b) *Blending.*

Items of distribution shall not be blended with credit items. Accounts containing such blending shall not be filed, and if filed, will not be confirmed.

(c) *Supplemental Accounts.*

Supplemental accounts shall conform to the original accounts in every detail, including form, execution and verification.

**Rule 2.1-2. Accounts by Cemetery Trustees.**

The accounts filed by Institutional Trustees and by Cemetery Companies as Trustee pursuant to 9 Pa.C.S.A. § 308 shall include therein a schedule containing information sufficient to demonstrate compliance with 9 Pa.C.S.A. § 303 regarding periodic deposits to permanent lot care funds.

**Rule 2.1-3. Valuations.**

The values of assets on hand should be stated both at the fiduciary acquisition value and the market value as of the end of the accounting period.

**Rule 2.2-1. Form. Appointed Estates.**

Assets appointed by the donee of a testamentary power and which must be accounted for by the fiduciary of the donee because they were awarded by a court of the donor's jurisdiction, shall be shown in an entirely separate account. Such assets shall not be included in an account of the donee's own estate unless the court of the

donor's jurisdiction has adjudicated a blending by the donee of the appointed estate with his own.

Separate accounts of the appointed estate shall be captioned in the name of the state of the donor or the power. The caption shall also set forth accountant's name, describing the accountant as fiduciary of the donee, and the court which awarded the assets to accountant.

**Rule 2.3-1. Caption. Accounts for Minors. Additional Content.**

The caption of all accounts filed for the estates of minors shall set forth the date of birth of the minor.

**Rule 2.4-1. Amended Petition for Adjudication/Statement of Proposed Distribution.**

(a) An amended Petition for Adjudication/Statement of Proposed Distribution may be filed as of course with the Clerk at any time after the account and Petition for Adjudication/Statement of Proposed Distribution have been filed and before the same are called for audit, and thereafter with leave of or at the direction of the Court.

(b) An amended Petition for Adjudication/Statement of Proposed Distribution shall contain the caption of the case, a heading "Amended Petition for Adjudication/Statement of Proposed Distribution," contents in conformity with Lehigh O.C. Rule 2.5-3 hereof, and shall be signed by the parties who executed the Petition for Adjudication/Statement of Proposed Distribution or their counsel of record.

(c) An amended Petition for Adjudication/Statement of Proposed Distribution shall include all exhibits which are not already part of the record.

(d) Notice of an amended Petition for Adjudication/Statement of Proposed Distribution shall be given in the same manner as in the case of a supplemental account (Pa.O.C. Rule 2.5) and shall include the reason therefore.

**Rule 2.4-2. Distribution. In Kind.**

(a) Whenever unconverted personalty or realty is included in the balance of an account and distribution thereof in kind is proposed, a writing shall be filed with the Petition for Adjudication/Statement of Proposed Distribution, signed by the prospective distributee or distributees and acknowledged before a person duly authorized to take acknowledgments, setting forth his or their election to take in kind, designating clearly and accurately the particular asset or assets included in the election, stating the values at which said asset or assets shall be allotted, and requesting the Court to order distribution accordingly; provided that the foregoing rule shall not apply in the following instances:

(b) When the distribution is in satisfaction of a specific bequest or devise;

(c) When the proposed distributee has, in a proper fiduciary capacity, stated or joined in the statement of the account and executed and verified the Petition for Adjudication/Statement of Proposed Distribution.

(d) When the will specifically authorizes the accountant to make distributions in-kind.

**Rule 2.4-3. Distribution. In Kind. Real Estate.**

Whenever the distribution of unconverted real estate is proposed, whether in satisfaction of a specific devise or a request for distribution in kind, there shall be submitted with the Petition for Adjudication/Statement of Proposed Distribution a description by metes and bounds and Parcel Identification Number ("PIN") of each tract or parcel of realty to be distributed, together with a recital

of the derivation of decedent's title. Counsel for the accountant shall certify that he has examined the last recorded deed or the record thereof in the public office for the recording of deeds in the county in which the real estate is located and that the description submitted is a true and exact copy of the description contained in the recorded deed.

**Rule 2.4-4. Distribution of After-Discovered Assets.**

(a) Whenever additional assets are discovered after audit and final confirmation of an account, a petition by the personal representative or any interested party may be presented to the Court without the filing of a supplemental inventory or a formal accounting. The petition shall set forth that no transfer inheritance tax is due or that any such tax due has been paid as shown by a true and correct copy of the official receipt therefor attached to the petition as an exhibit; that there are no known unpaid claimants of the estate or, if there be such claimants, the names, addresses, and amounts claimed by such claimants; the names and addresses of those entitled to receive distribution and the facts supporting such conclusions; and a Petition for Adjudication/Statement of Proposed Distribution.

(b) Notice of such a petition shall be given in accordance with Pa.O.C. Rule 2.5.

**Rule 2.5-1. Notice. Co-fiduciaries.**

Written notice of the filing of the account and the call thereof for audit shall be given to all co-fiduciaries who do not join in stating the account in accordance with Pa.O.C. Rule 2.5.

**Rule 2.5-2. Notice to Guardian or Trustee ad Litem. Time.**

Whenever a guardian ad litem or a trustee ad litem is appointed within three (3) weeks of the audit date, then the audit date shall be continued if requested by the guardian ad litem or the trustee ad litem.

**Rule 2.5-3. Notice. Supplemental Accounts.**

Whenever a supplemental account is filed before the original account is called for audit, notice thereof shall be given as nearly as possible in accordance with Pa.O.C. Rule 2.5 and proof of notice filed in accordance therewith, and, provided at least twenty (20) days elapse between the giving of such notice and the day on which the original account is called for audit, the Court will audit both the original and supplemental accounts. In the event the aforementioned notice is not given or that the requisite twenty (20) days between notice and the call for audit do not elapse, the Court will audit both accounts and a true and correct copy of the supplemental account will be served with the Court's adjudication and order as provided by Lehigh O.C. Rule 4.6-1.

**Rule 2.6-1. Time for Filing with the Clerk.**

Accounts to appear on a particular audit list shall be filed no later than the closing date fixed for that audit list by the Court calendar.

**Rule 2.6-2. Time for Filing. Supplemental Accounts.**

When a final account has been filed for audit, a supplemental account of subsequent receipts and disbursements and an amended Petition for Adjudication/Statement of Proposed Distribution, if necessary, stated in accordance with Pa.O.C. Rule 2.1 and Lehigh O.C. Rule 2.4-1 may be filed with the Clerk before, or with the Court at, the call of the final account for audit, or whenever the

Court shall direct. Notice of the filing of a supplemental account to be given to all interested parties in accordance with Pa.O.C. Rule 2.5.

**Rule 2.7-1. Objections. Time for Filing.**

(a) Objections may be made orally when an account is first called for audit, in which event they shall be reduced to writing and filed in conformity with these Rules within five (5) business days thereafter. Notice of the filing of written objections must be mailed in accordance with Pa.O.C. Rule 2.7(a).

(b) Objections to supplemental accounts or amended Petition for Adjudication/Statement of Proposed Distribution shall be in the same form and filed in the same manner as objections to accounts and Petitions for Adjudication/Statements of Proposed Distribution.

(c) No objections shall be filed or made except as provided in (a), (b) or (c) hereof unless leave of Court is first obtained.

**Rule 2.7-2. Objections. Service. Return.**

(a) Immediately after objections have been filed with the Clerk, a copy of said objections to an account and/or Petition for Adjudication/Statement of Proposed Distribution shall be served upon the accountant and all other interested parties or their attorneys of record. Proof of such service shall be filed with the Clerk within ten (10) days of filing objections.

**Rule 2.7-3. Objections. Continuance of Audit.**

When objections to an account and/or Petition for Adjudication/Statement of Proposed Distribution have been filed prior to or at audit, or presented orally and thereafter filed in writing, in accordance with Leh.O.C. Rule 2.7-1, the audit of the account shall be continued pending disposition of the objections.

**Rule 2.9-1. Confirmation of Account, Order of Distribution and Satisfaction of Award.**

(a) An order of court confirming an account and directing distribution is final.

(b) Any party distributing, paying or delivering money or other property to a distributee may, at the time thereof, require the distributee or his counsel to execute a Satisfaction of Award and shall file same with the Clerk.

(c) Whenever a distributee has refused to execute a Satisfaction of Award as provided above, the distributor may petition the Court for an order directing the distributee to enter, or authorizing the entry of, a Satisfaction of Award.

(d) The Clerk shall, at the request of any interested party, certify excerpts from an order of court for recording in any public office for the recording of deeds.

**CHAPTER III PETITION PRACTICE AND PLEADING**

**Part A. Petition Practice**

**Rule 3.4-1. Exhibits. Certification.**

(a) There shall be attached to all petitions as exhibits the originals or copies of all wills, codicils, agreements and other written instruments relied upon.

(b) The signature of an attorney to a petition shall constitute a certification by that attorney that all copies of written or printed instruments, records or documents which are not certified or authenticated, are true and correct copies of the original.

**Rule 3.4-2. Exhibits. Foreign Language. Translation.**

Whenever a written instrument in a language other than English is attached to a petition as an exhibit, it shall be accompanied by an English translation sworn to or affirmed by the translator to be a true and correct translation of the original.

**Rule 3.4-3. Consents. Joinders. Averments.**

All petitions shall aver that the interested parties are petitioners, or that all consents or joinders of all necessary parties are attached to the petition, or set forth the names of all necessary parties whose consents, approvals or joinders are attached to the petition and the names of all necessary parties whose consent or joinders are not attached to the petition.

**Rule 3.4-4. Consents. Joinders. Form. Acknowledgment.**

(a) Whenever a party other than a petitioner desires to consent to or join in the prayer of a petition, there shall be appended to the petition, a written "Consent" or "Joinder" signed by the parties substantially in the following form:

I, \_\_\_\_\_, having read and considered the contents of the foregoing petition, do herewith waive the benefit of all requirements of notice of the presentation, or service upon me, of said petition, do authorize the Court to note my general appearance in said proceeding as though I had appeared personally or by counsel, do herewith waive all objections to the Court's jurisdiction over my person, and do herewith [consent to the entry of an order as prayed for in said petition] or [join in the prayer of said petition].

(b) All "Consents" and "Joiinders" shall be acknowledged before a notary public or other officer duly authorized to take the same.

The acknowledgment shall be substantially in the following form:

COMMONWEALTH OF \_\_\_\_\_ )  
 PENNSYLVANIA )  
 COUNTY OF \_\_\_\_\_ ) ss:

On \_\_\_\_\_, 20\_\_\_\_, before me a \_\_\_\_\_ in and for \_\_\_\_\_, personally appeared who was known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing (consent) (joinder) and acknowledged the same to be \_\_\_\_\_ act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and \_\_\_\_\_ seal the day, month and year aforesaid.

\_\_\_\_\_  
 Notary Public  
 My Commission Expires:

**Rule 3.5-1. Rule to Show Cause.**

In all cases where personal jurisdiction is not required or has been previously obtained or conferred by statute, a petitioner may proceed in the manner of a Rule to Show Cause, (rather than a citation or Notice Practice), the Rule shall be substantially in the form set forth in Appendix A.

**Rule 3.5-2. Praecipe.**

In the absence of a responsive pleading and/or after the pleadings have closed, any party may file a praecipe, substantially in the form set forth in Appendix B, re-



questing that the Court proceed on the motion or petition and send a copy of said praecipe to each party by regular mail.

**Rule 3.5-3. Alternative Service.**

Whenever service cannot be made as otherwise provided in this Rule and the facts thereof are made known to the Court by an affidavit supplementing the original petition or motion sought to be served, the Court may enter an order awarding an alias or pluries citation or other order (which may provide for service by publication or other means) as the Court deems necessary.

**Rule 3.5-4. Uncontested Petitions and Motions.**

Applications, petitions, motions or other miscellaneous business certified as uncontested may be filed with the Clerk or presented in Orphans' Court Motions Court.

**Part B. Responsive Pleadings**

**Rule 3.9-1. Briefs.**

Within twenty (20) days after preliminary objections not raising issues of fact have been filed, the objector shall file his or her brief with the Clerk and serve a copy thereof upon all other interested parties, failing which the preliminary objections shall be dismissed as of course. Upon receipt of a brief timely filed, the Clerk shall list the case for argument and notify all interested parties. Answering briefs shall be filed with the Clerk not less than twenty (20) days prior to the date for argument.

**Rule 3.9-2. Failure to File an Answer to Preliminary Objections.**

If the petitioner fails to file an answer to preliminary objections raising questions of jurisdiction, the averments of fact set forth in the preliminary objections shall be deemed admitted and the case shall be deemed at issue. The Court may then, sua sponte or upon praecipe and with or without argument, enter an appropriate order.

**Rule 3.10-1. Failure to Answer.**

If the respondent fails to file an answer, as herein provided, the averments of fact set forth in the petition shall be deemed admitted and the case shall be at issue. The Court may then, sua sponte or upon praecipe, with or without a hearing, enter a decree granting the prayer of the petition.

**Part C. Pleadings in General**

**Rule 3.13-1. Permissible Signature.**

When it is impractical to comply with Pa.O.C. Rules 3.4(d) and 3.13, the pleading may be signed and attested by someone familiar with the facts, in which case the reason for the failure of the petitioner to sign shall be set forth in the attestation.

**CHAPTER IV FORMAT; SERVICE OF LEGAL PAPER; ELECTRONIC FILING**

**Rule 4.1-1. Legal Paper.**

All legal paper shall conform to the following requirements:

(a) The first sheet shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.;

(b) Be firmly bound by means of a metal binder clip only and numbered consecutively at the bottom;

(c) If filed by an attorney, shall be endorsed with his name, Supreme Court Identification Number, office address, telephone number and facsimile number; and

(d) If filed pro se (an unrepresented party), shall be endorsed with his name, address and telephone number.

**Rule 4.1-2. Briefs.**

In all matters where briefs are to be filed, an original and one copy shall be filed with the Clerk and served upon the other interested parties in accordance with these Rules. All briefs shall include proper legal citations conforming to the Uniform System of Citations and contain:

(a) A title page upon which shall appear the caption of the case, including its file number; a designation of the party upon whose behalf the brief is filed and of the matter involved;

(b) A statement or counter-statement of the questions involved; in which each question involved shall be set forth clearly and succinctly in a single sentence which can be answered either "Yes" or "No.";

(c) A statement or counter-statement of the case;

(d) Summary of argument;

(e) Argument, in which each question involved shall be the subject of a separate and distinct subdivision;

(f) A short conclusion stating the precise relief sought; and

(g) The signature of the attorney or pro se litigant filing the brief.

**Rule 4.2-1. Notice by Publication.**

(a) The *Lehigh Law Journal* shall be the legal periodical for the publication of all notices.

(b) A petition requesting leave of court for alternative service is required. See, Leh.O.C. Rule 3.5-3.

**Rule 4.2-2. Time for Notice by Publication.**

Whenever notice of the intention to do any act, including the sale of real property, is given by publication, the last published notice shall be not less than twenty (20) days prior to the return day, the day of hearing, the day fixed for the sale or the day fixed for the doing of said act. (See also Pa.O.C. Rule 1.2(b) and Pa.R.C.P. 106—108.)

**Rule 4.2-3. Return of Notice. Form of Affidavit.**

A return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event for which notice has been given. The form of affidavit shall substantially conform to the forms appended to this section as follows:

(a) If notice was given by personal service, the affidavit shall be in the following form:

(CAPTION)

COMMONWEALTH OF )  
 PENNSYLVANIA )  
 ) ss:  
 COUNTY OF LEHIGH )

NAME, being duly sworn according to law, deposes and says that s/he personally served the notice attached hereto upon NAME, by handing him a true and correct copy thereof,<sup>1</sup> on DATE, at TIME, at ADDRESS, and making known the contents thereof and further that the facts are true and correct.

<sup>1</sup> Whenever notice is accompanied by other documents, e.g., a copy of an account and Petition for Adjudication/Statement of Proposed Distribution, insert that fact here.



/s/ \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

(b) If notice was given by mail, facsimile or electronic transmission, the affidavit shall be substantially in the following form:

(CAPTION)

COMMONWEALTH OF \_\_\_\_\_ )  
PENNSYLVANIA )  
 ) ss:  
COUNTY OF LEHIGH )

NAME \_\_\_\_\_, being duly sworn according to law, deposes and says that he served the notice attached hereto on NAME \_\_\_\_\_, by (Insert form of service and whether a return receipt was requested) on DATE \_\_\_\_\_, if applicable, that attached hereto is the signed return receipt card which accompanied the mailing<sup>2,3</sup>; and that

the above facts are true and correct.

/s/ \_\_\_\_\_  
Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

(c) If notice was given by publication, an affidavit in the following form shall be

(CAPTION)

COMMONWEALTH OF \_\_\_\_\_ )  
PENNSYLVANIA )  
 ) ss:  
COUNTY OF LEHIGH )

NAME \_\_\_\_\_, being duly sworn according to law, deposes and says that the present address of NAME \_\_\_\_\_ is unknown; [that a true and correct copy of the notice attached hereto was forwarded to NAME \_\_\_\_\_, at his last known residence at ADDRESS \_\_\_\_\_, by mail on DATE \_\_\_\_\_; that said mail was returned unopened and undelivered by the post office; that said unopened and undelivered letter is attached hereto;]<sup>4</sup> that notice was given by publication once a week for three (3) successive weeks on DATE \_\_\_\_\_, DATE \_\_\_\_\_, and DATE \_\_\_\_\_ in the PUBLICATION \_\_\_\_\_, a newspaper of general circulation published in the LOCATION OF PUBLICATION \_\_\_\_\_, and by publication one (1) a week for three (3) successive weeks on DATE \_\_\_\_\_, DATE \_\_\_\_\_, and DATE \_\_\_\_\_ in the PUBLICATION \_\_\_\_\_, the legal periodical published in LOCATION OF PUBLICATION \_\_\_\_\_; that attached hereto are the proofs of publication of said notice in said newspaper and legal periodical; and that the facts set forth herein are true and correct.

<sup>2</sup> If the receipt is not signed or is not returned, the affidavit shall so state, together with the reason therefore, if known. When the notice is not delivered and the unopened letter is returned to the sender, the affidavit should conform to the first part of the form under Leh.O.C. 4.2-3(c).  
<sup>3</sup> If mailed, requesting a return receipt, to a foreign country (many of which will not return the receipt card), set forth any facts indicating that the notice was received.  
<sup>4</sup> If initially notice was given by publication, the portion of the form enclosed in brackets shall be omitted from the return.

/s/ \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**Rule 4.6-1. Adjudication and Order. Service. Method. Proof.**

(a) Promptly upon receipt of notice of entry of an adjudication order confirming a formal fiduciary account, counsel for the accountant shall immediately serve a true copy of the adjudication and order upon:

- (1) Every individual required to be served with the account and the Petition for Adjudication/Statement of Proposed Distribution pursuant to Pa.O.C. Rule 2.5;
- (2) Each attorney of record; and
- (3) Such other parties as the Court may direct.

(b) Immediately upon effecting service of the adjudication and order as provided in (a) hereof, counsel for the accountant shall file proof of such service.

**CHAPTER V SPECIFIC TYPES OF PETITIONS**

**Rule 5.5.1. Reports.**

Upon direction by the Court, each Guardian ad litem and Trustee ad litem appointed by the Court shall, upon concluding the duties of his appointment, file with the Court a written report in substantial conformity with Pa.O.C. Rule 9.4.

**Rule 5.5.2. Compensation.**

The compensation of a Guardian ad litem or a Trustee ad litem appointed by the Court shall be fixed by the Court on the basis of time expended, the nature of the services rendered, and the results obtained. Unless otherwise directed by the Court, requests for compensation shall be in the form of a petition filed with the Clerk and shall be accompanied by an itemized statement of services rendered.

**Rule 5.5.3. Resignation.**

No Guardian ad litem or Trustee ad litem shall resign without prior approval of the Court pursuant to a petition.

**Rule 5.6-1. Receipt of Death Benefit/Life Insurance Proceeds Payable to a Minor Without Appointment of Guardian of the Estate.**

(a) A petition for authority to receive life insurance and/or death benefit proceeds payable to a minor without the appointment of a guardian of the estate shall include:

- (1) Petitioner's name, address and relationship to the minor;
- (2) The minor's date of birth and the name, address and relationship of the person with whom the minor resides;
- (3) The name[s] of the minor's parent[s] who are not petitioners;

(4) A description, including the name of the payor and policy/contract number[s], of the nature and amount of life insurance proceeds/death benefit[s] payable to the minor, including the name, date, place of death and relationship to the minor of the person whose death caused the proceeds to vest in the minor;

(5) The name, complete branch address and telephone number of a federally insured bank in which the life insurance proceeds/death benefit[s] will be deposited to a restricted account in the minor's name during minority;

(6) Petitioner's agreement to file the requisite proofs of deposit of the minor's life insurance proceeds/death benefit to an interest-bearing bank account in the minor's name alone, access to which is restricted during minority; and

(7) Whether any parent of the minor who is not a petitioner is aware of and consents to the petition.

(b) The petition shall be in substantial compliance with the form annexed as APPENDIX C, including referenced attachments.

**Rule 5.6-2. Access to Restricted Account Established by Court Order.**

(a) A petition for access to a minor's restricted account created by the court pursuant to 20 Pa.C.S.A. § 5103, shall include the following information:

(1) The date that the minor's restricted account was created;

(2) The file name/caption and number of the proceeding in which the restricted account was created;

(3) The type of account, the account number, the current balance and the bank name and address;

(4) Whether there is an early withdrawal penalty assessed by the bank if access is granted by court order, and if so the amount of any such penalty;

(5) The reason for the requested withdrawal; and

(6) Whether any non-petitioner parent[s] of the minor consent to the petition.

(b) The petition shall be in substantial compliance with the applicable of the two forms annexed as APPENDIX D, including all referenced attachments.

**Rule 5.9-1. Procedure.**

The procedure subsequent to the entry of an order of the Orphans' Court directing partition shall, as near as practical, follow the rules for Partition of Real Property set forth in Pa.R.C.P. 1558 et seq., with the "Clerk of the Orphans' Court" being substituted for any reference to Prothonotary or Clerk of Courts.

**Rule 5.10-1. Petition.**

(a) A petition by any fiduciary to sell real property at public sale pursuant to §§ 3353, 5155, 5521(b) or 7792 of the Code, or any other applicable statute, shall also set forth, as appropriate:

(1) Type of fiduciary and copy of governing instrument or order;

(2) A copy of the current deed with PIN;

(3) An estimate of the fair market value of the property and the basis therefore, along with supporting documentation;

(4) Whether or not the fiduciary is authorized to sell by statute or is not authorized, or is denied the power to do

so by the governing instrument or that it is desirable that the sale have the effect of a judicial sale and the reasons why;

(5) If the fiduciary has entered a bond, the name of the surety and the amount of such bond;

(6) The names and relationships of all parties, a brief description of their interests; the ages of any who are minors, the names of the authorized legal representative of any who are deceased or incapacitated, an indication of whether or not each party consents or does not;

(7) The proposed terms of the sale; and

(8) A prayer for an order and a copy of a proposed order authorizing the public sale of real property in accordance with the terms of sale set forth in the petition, setting forth the date for sale, directing the filing of a return of sale in accordance with Rule 5.10-3 and setting a date for confirmation of the sale.

**Rule 5.10-2. Public Sale. Notice.**

(a) After grant of a petition for public sale of real property, notice of the time and place of the proposed sale and a description, stating the size and location of the property to be sold, shall be given by:

(1) Advertisement once a week for three (3) successive weeks in accordance with the requirements of Lehigh O.C. Rules 4.2-1 and 4.2-2, provided that if the property is located in a county other than Lehigh County then by advertisement as aforesaid in the legal periodical and in a newspaper of general circulation published in the county in which the property is located;

(2) Posting at a conspicuous place on the real property to be sold and at three (3) different public places in the vicinity of the real property; and

(3) Regular mail to all interested parties, including the Attorney General of the state in which any charitable party in interest is domiciled in accordance with the requirements of Pa.O.C. Rule 4.4.

(b) All returns of notice shall conform to the pertinent provisions of Lehigh O.C. Rule 4.2-3 and be filed with the Clerk on or before the date set for confirmation of the sale.

**Rule 5.10-3. Public Sale. Return of Sale. Confirmation.**

(a) Returns of public sale of real property for the purpose of confirmation by the Court shall be in the form of an Affidavit which shall set forth:

(1) The notice given as provided by Lehigh O.C. Rule 5.10-2 hereof;

(2) The name and address of the purchaser and an averment that he was the highest bidder; and

(3) The price obtained.

(c) In the absence of objections, which may be filed on or before the date and time set for confirmation, which date shall not be less than twenty (20) days after the date of filing the Affidavit, the Court may enter an order confirming the sale and fixing or waiving additional security.

(d) At the date and time set for confirmation, which date shall not be less than twenty (20) days after the date of filing the Affidavit, the fiduciary shall submit to the Court a proposed order confirming the sale.

**CHAPTER VI [ RESERVED ]****CHAPTER VII PRE-HEARING AND HEARING  
PROCEDURE****Rule 7.1-1. Discovery.**

(a) The practice relating to discovery shall be by special Order of the Court in each case.

(b) Leave of Court must be granted to obtain discovery of any kind or the perpetuation of testimony. Requests may be made by petition or oral motion, with proper notice or the consent of all parties.

(c) A petition to perpetuate testimony shall include the averments required by Pa.R.C.P. 1532.

**Rule 7.1-2. Pre-hearing Conference.**

(a) In any proceeding before the Court, the Court may direct the parties and counsel to appear for a pre-hearing conference.

(b) At least five (5) business days prior to the date of the pre-hearing conference, each party shall file with the Clerk and serve upon each other party a written pre-hearing statement which shall contain:

- (1) A listing of the legal and factual issues and relief requested;
- (2) The names and addresses of all witnesses to be called during the hearing and a statement as to whether each witness is a fact witness or an expert witness;
- (3) An identification of all exhibits to be used at any hearing;
- (4) Any list of proposed stipulations or agreements;
- (5) Any proposed amendments to pleadings;
- (6) Such other matters as may aid the Court in the disposition of this action;
- (7) An identification of hearing counsel, along with counsel's name, address, email address, telephone number and facsimile number;
- (8) An estimate of the length of the hearing; and
- (9) A statement as to the status of settlement negotiations.

**Rule 7.2-1. Judgment on the Pleadings. Brief.**

All motions for judgment on the pleadings shall be accompanied by a brief in support thereof.

**CHAPTER VIII RECONSIDERATION [ RESERVED ]****CHAPTER IX AUDITORS AND MASTERS****Rule 9.1-1. Notice of Hearings. Method. Parties.**

(a) An auditor or master shall give written notice of his appointment and of the time and place of his first hearing to all interested parties or their counsel of record.

(b) Notice of succeeding hearings given by the auditor or master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

**Rule 9.6-1. Service of Report.**

An auditor or master shall serve, in the same manner as provided for notice under Pa.O.C. Rule 4.3, all interested parties or their counsel of record with a time-stamped copy of his report and shall file proof of such service with the Clerk.

**Rule 9.7-1. Objections to Report of Auditor or Master.**

Objections, if any, to the report of an auditor or master shall be filed within twenty (20) days of the filing of said report in accordance with Pa.O.C. Rule 2.7.

**CHAPTER X PRACTICE BEFORE THE REGISTER  
OF WILLS****Rule 10.1-1. Supporting Documentation.**

In addition to the payment of the published filing fee, the following may be required:

- (a) Photo identification of persons applying for appointment as personal representative;
- (b) An original death certificate or satisfactory substitute;
- (c) Original will/testamentary writing; and
- (d) Affidavit of Relationship.

**Rule 10.4-1. Certification of Record. Petition.**

(a) A petition to certify the record to the Orphans' Court Pursuant to 20 Pa.C.S.A. § 907 shall include the following information:

- (1) The name, address and interest and/or standing of each petitioner;
- (2) The nature of the proceeding before the Register and its procedural posture;
- (3) The reason of the request to certify the record to the Orphans Court;
- (4) The names of those parties who oppose the certification, if any, and the names of those parties who join the request for certification; and
- (5) A prayer for relief.

**Rule 10.4-2. Appeals from Register. Time for Filing  
Petition. Contents.**

(a) A petition for citation to show cause why an appeal from the Register should not be sustained shall be filed with the Clerk within 30 days after the filing of a Notice of Appeal with the Register of Wills.

(b) A petition for citation to show cause why an appeal from the Register should not be sustained shall include the following:

- (1) A description of the decree of the Register from which the appeal is taken, including the date thereof;
- (2) The date on which a Notice of Appeal was filed with the Register, and if a bond was required, the amount thereof, the date on which it was filed and the name of the surety, if any;
- (3) The name, address and interest/standing of each petitioner;
- (4) The factual and legal basis for the appeal;
- (5) The names and addresses of all interested parties, whether they are sui juris, and if not, the names and addresses of their duly appointed legal representatives together with the date and place of said fiduciary's appointment; and

(6) The names of any interested parties whose Consents and Joinders are attached and the names of those whose Consents and Joinders are not attached and the nature of such non-consenting party's interest.

(c) Exhibits.

(1) A copy of the will, codicil or other instrument relied upon as the basis for the appeal and a copy of the probated instrument, if any;

(2) A time-stamped copy of the Notice of Appeal; and

(3) Consents and Joinders.

CHAPTER XI [ RESERVED ]

CHAPTER XII [ RESERVED ]

CHAPTER XIII [ RESERVED ]

CHAPTER XIV ADULT INCAPACITY PROCEEDINGS [ RESERVED ]

APPENDIX

To Leh.O.C. Rules

Leh.O.C. Rule 3.5-1

APPENDIX A

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: : File No. :

RULE TO SHOW CAUSE

NOW, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, IT IS ORDERED that a Rule hereby, issued upon \_\_\_\_\_, to show cause why the prayer of the annexed (insert title of petition or motion and the name of the filing party) \_\_\_\_\_ should not be granted.

Notice is hereby given that, if you are opposed to the granting of the prayer of the annexed petition or motion, you must file a written answer or other responsive pleading with the Clerk of the Orphans' Court Division of Lehigh County, Pennsylvania at the Lehigh County Courthouse, 455 West Hamilton Street, Allentown, Pennsylvania, on or before the return date set forth below.

IF YOU FAIL TO FILE A TIMELY WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING, THE AVERMENTS OF FACT SET FORTH IN THE ANNEXED PETITION OR MOTION SHALL BE DEEMED ADMITTED AND THE COURT sua sponte, OR AT THE REQUEST OF THE MOVING PARTY, MAY ENTER AN ORDER GRANTING THE PRAYER THEREOF WITHOUT FURTHER NOTICE TO YOU.

Return Date: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_ J.

Leh.O.C. Rule 3.5-2

APPENDIX B

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: : File No. :

PRAECIPE

TO THE HONORABLE JUDGES OF THE SAID COURT:

This is to certify:

1. That all respondents have been served with the following petition or motion: \_\_\_\_\_ .

2. That an affidavit of service has been filed or is attached.

3. That \_\_\_\_\_ no timely response has been filed.

And/Or \_\_\_\_\_ the pleadings are closed.

Therefore, the undersigned requests that the Court proceed on the motion or petition.

Date: \_\_\_\_\_ Counsel for \_\_\_\_\_

Leh.O.C. Rule 5.6-1(b)

APPENDIX C

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: \_\_\_\_\_ : File No. \_\_\_\_\_ A Minor \_\_\_\_\_ :

PETITION FOR AUTHORIZATION TO RECEIVE DEATH BENEFIT/LIFE INSURANCE PROCEEDS PAYABLE TO A MINOR BENEFICIARY AND TO ESTABLISH A RESTRICTED ACCOUNT DURING MINORITY OF BENEFICIARY IN LIEU OF APPOINTMENT OF A GUARDIAN OF THE ESTATE OF THE MINOR

To the Honorable, the Presiding Judge of the Orphans' Court Division:

The petition of \_\_\_\_\_, parent and natural guardian/ legal custodian of \_\_\_\_\_, a minor, respectfully states:

1. Your petitioner is an adult individual who currently resides at \_\_\_\_\_ .

2. \_\_\_\_\_ was born on \_\_\_\_\_, is currently \_\_\_\_\_ years of age and resides at \_\_\_\_\_ with \_\_\_\_\_ .

A certified copy of the minor's birth certificate that includes the names of his/her parents is attached as Exhibit A to this petition. (state the minor's name, date of birth, current address and the name of the adult with whom the minor is living and that person's relationship to the minor. The minor's birth certificate that includes the names of the parents must be attached to the petition)

3. The minor is the child of \_\_\_\_\_ and \_\_\_\_\_ . (provide name of the other parent and his or her current address if living, and the date and place of death if deceased). By order dated, \_\_\_\_\_, your petitioner was awarded ( ) legal ( ) physical ( ) legal and physical custody of said minor. (attach a copy of the custody order as an exhibit)

4. The minor is a beneficiary of death benefit payable by \_\_\_\_\_ by reason of the death of \_\_\_\_\_, a resident of \_\_\_\_\_ County, who was the \_\_\_\_\_ of the minor. The amount of the



death benefit payable to the minor is \_\_\_\_\_ . (state the name of the company/organization paying the death benefit or life insurance proceeds, including the policy number, if available, the approximate amount so payable to the minor, the name and date of death of the insured and his or her relationship to the minor)

5. Upon receipt of the death benefit payable to the minor, your petitioner will deposit the funds in an interest-bearing savings account, money-market account, or certificate of deposit at \_\_\_\_\_, entitled in the minor's name alone, which account shall be completely restricted during the minority of \_\_\_\_\_. (State the name of the bank and the mailing address of the branch in which you intend to deposit the minor's proceeds to a restricted interest-bearing account)

6. Your petitioner will file proof of the establishment of the restricted account, in the form satisfactory to the Court, within 10 days of the receipt of the death benefit payable to the minor.

WHEREFORE, your petitioner, \_\_\_\_\_, parent and natural guardian/legal custodian of the minor beneficiary, prays this Honorable Court to authorize him/her to receive the death benefit payable to the minor child, \_\_\_\_\_, without the appointment of a guardian of the estate, and to direct that s/he immediately deposit the proceeds to an interest-bearing bank account in the name of the minor child, access to which will be restricted during the minority of the beneficiary.

Date: \_\_\_\_\_ (Signature of the petitioner)

VERIFICATION

I, \_\_\_\_\_, Petitioner, verify that the facts stated in the foregoing Petition for Authorization to Receive Death Benefit/Life Insurance Proceeds Payable to a Minor and to Establish a Restricted Account during Beneficiary's Minority and the Parental Consent attached thereto, are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_ (Signature of the petitioner)

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: \_\_\_\_\_ : File No. \_\_\_\_\_ A Minor : \_\_\_\_\_ :

Parental Consent to Establish Restricted Interest-Bearing Bank Account Upon Receipt of Death Benefit/Life Insurance Payable to Minor

I \_\_\_\_\_ am the mother/father and natural guardian of the minor beneficiary of a death benefit payable by \_\_\_\_\_ by reason of the death of \_\_\_\_\_, on \_\_\_\_\_.

I consent and agree to immediately deposit the proceeds so payable to my minor child, \_\_\_\_\_ to an interest-bearing account at \_\_\_\_\_, \_\_\_\_\_.

- I understand that:
• the bank account is to be entitled in the name of my minor child alone;
• that I must give a copy of the Court Order authorizing me to receive these proceeds on my minor child's

behalf and directing me to deposit them in an interest-bearing account during his/her minority to the bank official when I open the restricted bank account;

• that I must have the bank official who opened the restricted account for my minor child fill out the form entitled, "Affidavit of Deposit of Minor's Funds" that will be supplied to me by the Clerk of the Orphans' Court Division;

• that I must fill out the form entitled "Parent's Certification of Compliance with Court Order Directing Establishment of Minor's Restricted Account" that will be supplied to me by the Clerk of the Orphans' Court Division

• that I must mail or deliver the completed "Affidavit of Deposit of Minor's Funds" and the completed "Parent's Certification of Compliance with Court Order Directing Establishment of Minor's Restricted Account" to the Clerk of the Orphans' Court Division, Lehigh County Courthouse, 455 West Hamilton Street Allentown, Pennsylvania, 18101-1614, within 10 days after I have received the death benefit payable to my minor child.

• that no withdrawals will be permitted from the account during my child's minority unless approved by the Orphans' Court of Lehigh County Pennsylvania.

Date: \_\_\_\_\_ (Signature of Parent)

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: Estate of \_\_\_\_\_ ) File No. \_\_\_\_\_ ) Deceased \_\_\_\_\_ ) : [\_\_\_\_\_, a minor]

ORDER

NOW, this \_\_\_\_\_ day of \_\_\_\_\_, upon consideration of the Petition for Authorization to Receive Death Benefit/Life Insurance Proceeds Payable to a Minor Beneficiary and to Establish a Restricted Account During Minority of Beneficiary In Lieu of Appointment of a Guardian of the Estate of the Minor;

IT IS ORDERED that:

1. (name of proposed recipient and relationship to minor) of (minor's name), a minor, be and is authorized and directed to receive, in care of (name of petitioner's counsel), Esquire, the proceeds payable under the terms of the policy issued by (name of insurance company) on the life of (name of decedent), deceased, without the appointment of a guardian of the minor's estate or the entry of security; and,

2. (name of parent), be, and is, authorized and directed to execute, on behalf of (minor's name), a minor, any receipt or other appropriate instrument necessary to receive the proceeds payable under the terms of the policy issued by (name of insurance company and policy number) on the life of (name of decedent), deceased;

3. (attorney's name), Esquire, counsel for (petitioner's name), is authorized to retain from the proceeds the sum of \$ \_\_\_\_\_ as compensation for legal services rendered to the minor in connection with this petition and is directed to deposit immediately the balance of the proceeds payable to (minor's name), a minor, under the terms of the policy issued by (name of insurance company), on the life of (decedent's name) in an interest-

bearing savings account, money-market account or certificate of deposit at (Bank/Savings & Loan/Credit Union—include branch and address) a federally insured depository, titled “ \_\_\_\_\_, a minor” subject to the express restriction which shall be noted upon the record of the depository and on the passbook or certificate that without further Order of this Court, no withdrawals shall be made until the minor reaches the age of eighteen (18) years, which event will occur on (date of minor’s eighteenth birthday), at which time the depository shall, upon order of the former minor and without the necessity of an accounting or further order of this Court, pay the funds then on deposit in this account to the former minor.

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Order, (name of counsel to petitioner), Esquire, shall file with the Clerk of the Orphans’ Court Division, a sworn acknowledgment by an authorized official of the depository, that the balance of the money as herewith allotted to the minor has been deposited in a form of savings investment entitled in the minor’s name alone, subject to the restrictions on withdrawals hereinbefore imposed, and that said restrictions and the Orphans’ Court file number, have been noted on the bank’s records and in the passbook or on the certificate as directed; an Attorney’s Certificate of Compliance with Order Directing Deposit of Minor’s Funds, and a Parent’s/Legal Custodian’s Certificate of Compliance with Order Directing Establishment of Restricted Account for Minor.

IT IS FURTHER ORDERED that this Order shall constitute sufficient authority to (name of insurance company) to pay to (name of proposed recipient), in care of (counsel’s name), Esquire, all proceeds payable to (minor’s name), a minor, under the terms of the policy issued by it on the life of (decedent’s name), deceased.

BY THE COURT:

\_\_\_\_\_, Judge

Leh.O.C. Rule 5.6-2(b)

APPENDIX D

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS’ COURT DIVISION

In re: \_\_\_\_\_ :  
A Minor \_\_\_\_\_ : File No. \_\_\_\_\_  
:

PETITION FOR ACCESS TO FUNDS ON DEPOSIT FOR MINOR (under the age of 14) IN RESTRICTED ACCOUNT ESTABLISHED PURSUANT TO COURT ORDER

To the Honorable, the Presiding Judge of the Orphans’ Court Division:

The petition of \_\_\_\_\_, Mother/Father of a minor under the age of 14 respectfully states:

1. Your petitioner is an adult individual residing at \_\_\_\_\_ and is the Mother/Father of \_\_\_\_\_, a minor under the age of 14 years.

2. \_\_\_\_\_ was born on \_\_\_\_\_ and is currently \_\_\_\_\_ years of age and resides at \_\_\_\_\_ with \_\_\_\_\_. (state the minor’s name, date of birth, current address and the name of the adult with whom the minor is living and that person’s relationship to the minor)

3. The name of the other parent of the minor is \_\_\_\_\_ who currently resides at \_\_\_\_\_ (provide names and addresses of a parent who is not the petitioner; if the other parent is deceased, state date of death; if the current whereabouts of the other parent are unknown, so state and indicate the last time that parent had any contact with the minor)

3. By Court Order dated \_\_\_\_\_ a restricted account was established for the petitioner’s minor son/daughter at \_\_\_\_\_ bank. The approximate amount of the initial deposit was \_\_\_\_\_. The approximate amount of the current balance is \_\_\_\_\_.

4. Access to the restricted account is requested because: (State the reasons why you want to use these funds and indicate how much money you are requesting be released. Attach to this petition as much documentation that you have regarding the expense for which you are seeking funds from the restricted account, e.g. tuition bill; cost estimate; invoice, etc.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The petitioner and the other parent of the minor petitioner are unable to pay for the item/course described above.

6. The written consent of the minor’s other parent, is attached to this petition.  
OR

The consent of the minor’s other parent is not attached because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, your petitioner, \_\_\_\_\_, mother/father of the minor under the age of fourteen years prays this Honorable Court to authorize him/her to withdraw \$ \_\_\_\_\_ from his/her minor child’s restricted account at \_\_\_\_\_ Bank which was established by Order of Court dated \_\_\_\_\_.

Date: \_\_\_\_\_  
(Signature of the petitioning parent)

VERIFICATION

I, \_\_\_\_\_ petitioner, verify that the facts stated in the foregoing Petition for Access to Funds on Deposit for Minor (under the age of 14) in Restricted Account Established Pursuant to Court Order are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
(Signature of the petitioner)

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: \_\_\_\_\_ :
A Minor : File No. \_\_\_\_\_
:

Parental Consent to Access to Funds on Deposit for Minor (under the age of 14) in Restricted Account Established Pursuant to Court Order

I \_\_\_\_\_ am the mother/father of \_\_\_\_\_, a minor under the age of fourteen years, I consent to the authorization to withdraw \_\_\_\_\_ to be used for \_\_\_\_\_

I am unable to afford this expense.
Date: \_\_\_\_\_ (Signature of Parent)

Leh.O.C. Rule 5.6-2(b)

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: \_\_\_\_\_ :
A Minor : File No. \_\_\_\_\_
:

PETITION FOR ACCESS TO FUNDS ON DEPOSIT FOR MINOR (age 14 or older) IN RESTRICTED ACCOUNT ESTABLISHED PURSUANT TO COURT ORDER

To the Honorable, the Presiding Judge of the Orphans' Court Division:

The petition of \_\_\_\_\_, a minor age 14 or older, respectfully states:

1. \_\_\_\_\_ was born on \_\_\_\_\_ and is currently \_\_\_\_\_ years of age and resides at \_\_\_\_\_ with \_\_\_\_\_. (state the minor's name, date of birth, current address and the name of the adult with whom the minor is living and that person's relationship to the minor)

2. The minor is the son/daughter of \_\_\_\_\_ and \_\_\_\_\_ who currently reside at \_\_\_\_\_

(provide names and addresses of both parents; if the other parent is deceased, state date of death and give address of surviving parent; if the current whereabouts of a parent are unknown, so state and indicate the last time that parent had any contact with the minor)

3. By Court Order dated \_\_\_\_\_ a restricted account was established for the petitioner's minor son/daughter at \_\_\_\_\_ bank. The approximate amount of the initial deposit was \_\_\_\_\_. The approximate amount of the current balance is \_\_\_\_\_.

4. Access to the restricted account is requested because: (State the reasons why you want to use these funds and indicate how much money you are requesting be released. Attach to this petition as much documentation that you have regarding the expense for which you are seeking

funds from the restricted account, e.g. tuition bill; cost estimate; invoice, etc.)

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

5. The parent[s] of the minor petitioner is/are unable to pay for the item/course described above.

6. The written consent of the minor's Mother, and/or Father, \_\_\_\_\_ is/are attached to this petition.

OR

The consent[s] of the minor's parent[s] is/are not attached because:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

WHEREFORE, your petitioner, \_\_\_\_\_, the minor age of 14 or older, prays this Honorable Court to authorize him/her to withdraw \$ \_\_\_\_\_ from his/her restricted account at \_\_\_\_\_ Bank which was established by Order of Court dated \_\_\_\_\_.

Date: \_\_\_\_\_ (Signature of the minor petitioner)

VERIFICATION

I, \_\_\_\_\_ petitioner, verify that the facts stated in the foregoing Petition for Access to Funds on Deposit for Minor (age 14 or older) in Restricted Account Established Pursuant to Court Order are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_ (Signature of the petitioner)

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: \_\_\_\_\_ :
A Minor : File No. \_\_\_\_\_
:

I/We \_\_\_\_\_ am/are the mother/father of \_\_\_\_\_, a minor, age 14 or older, I/we consent to the authorization to withdraw \_\_\_\_\_ to be used for \_\_\_\_\_

\_\_\_\_\_
\_\_\_\_\_

I/we am/are unable to afford this expense.
Date: \_\_\_\_\_ (Signature of the Parent)

Date: \_\_\_\_\_ (Signature of the Parent)

[Pa.B. Doc. No. 16-1303. Filed for public inspection July 29, 2016, 9:00 a.m.]

**WASHINGTON COUNTY**  
**Local Orphans' Court Rules; No. 2016-1**

**Order**

*And Now*, this 15th day of July, 2016; *It Is Hereby Ordered* that the previously-stated Washington County Local Orphans' Court Rules are adopted as follows.

These rules will become effective thirty days after publication in the *Pennsylvania Bulletin*.

*By the Court*

KATHERINE B. EMERY,  
*President Judge*

**WASHINGTON COUNTY PENNSYLVANIA**  
**LOCAL ORPHANS' COURT RULES**

**O.C. Rule 1.1. Citation of Rules.**

These rules shall be known as the Rules of the Court of Common Pleas of Washington County, Orphans' Court Division, adopted pursuant to Pa.O.C. Rule 1.5 and shall be cited as Wash.O.C. Rule \_\_\_\_ .

**O.C. Rule 1.2. Sessions of Court. Miscellaneous Business.**

(a) The Orphans' Court will be in session for the presentation of petitions and motions, the return of Citations and Sales, and for scheduling hearings and arguments thereon at the Motions Court scheduled by the Orphans' Court Judge and published in the annual Administrative Regulations, which can be found in *Washington County Reports*, the Register of Wills of Washington County, the Washington County Law Library, Office of the District Court Administrator and the Washington County Courts Website.

(b) The Audit List will be called on the dates specified in the annual Administrative Regulations.

(c) All applications, petitions, motions, and other miscellaneous business must, except in emergencies, be presented in open court; provided, however, that applications in non-adversary matters may be presented to the assigned judge in chambers at the court's convenience.

**O.C. Rule 1.3. Definitions.**

*"Publication"*—the publication in a newspaper of general circulation where such newspaper is originally issued and circulated and *The Washington County Reports* shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, or by rule or order of court.

**O.C. Rule 1.6. Washington County Orphans' Court Mediation Program.**

(a) Cases filed in the Orphans' Court division may be ordered into the Orphans' Court Mediation Program by the judge to whom the case is assigned.

(b) The mediators shall be practicing attorneys that are members of the Washington County Bar Association, with an emphasis in their practice on Orphans' Court matters. A list of mediators shall be maintained by the District Court Administrator, and selected by the court in consultation with the Washington County Bar Association.

(c) Upon appointment, the mediator shall schedule the mediation within sixty (60) days of the order of court. The attendance of lead counsel, the parties, and a representative, including an insurance carrier, with authority to enter into a full and complete compromise and settlement is mandatory. If lead counsel, the parties, or a representa-

tive fail to appear absent good cause, the mediation will not be held and sanctions shall be entered against the non-appearing individual(s) by the court upon request of the mediator. Sanctions may include an award of reasonable mediator and attorney's fees and other costs.

(d) At least ten (10) days prior to the mediation, each party shall file a mediation statement which must include the following: (1) a succinct explanation of the facts and relief sought; (2) significant legal issues that remain unresolved; (3) summary of medical and expert reports (if applicable); (4) itemized list of damages; and (5) settlement posture and rationale. Failure to file a mediation statement may result in sanctions if requested by the mediator.

(e) Each party to a case selected for mediation shall pay a mediation fee to be made payable to the County of Washington and submitted to the Office of the District Court Administrator for processing. The mediation fee shall be set by administrative order, and information regarding the fee shall be available in the Office of the District Court Administrator.

(f) If the case has not been resolved, within ten (10) days from the date of the mediation, the mediator shall send the court a report setting forth the mediator's assessment of the case and the mediator's recommendation regarding settlement. A copy of the report shall be provided to and maintained by the District Court Administrator until the case is closed.

(g) If the case is resolved and a settlement agreed upon, the mediation shall send a letter to the judge, with copies to counsel and the District Court Administrator.

(h) The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall be liable and indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to Common Pleas Judges. Notwithstanding the preceding subsections the court may in its discretion set a case for an alternative dispute resolution ("ADR") before a private mediator. The method of selection of the private mediator shall be in the discretion of the court. All parties shall bear equally the costs of any court-ordered private mediation; provided, however, that the court will take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

**O.C. Rule 2.4. Medical Assistance.**

(a) For decedents who died after August 15, 1994, and were over 55 years of age upon their demise, the provisions of 62 P.S. § 1412(b) apply. Attached to the petition for adjudication shall be either:

(1) the notice sent to the Department of Human Services and the Department's response; or

(2) the Affidavit of the fiduciary, that he has reason to know the financial affairs of the decedent prior to decedent's death, and the fiduciary affirmatively represents that decedent did not receive any medical assistance during the five years preceding decedent's death.



**O.C. Rule 2.6. For a Particular Audit.**

Accounts to appear on a particular audit list must be filed not later than the date listed on the Schedule published annually by the Clerk of the Orphans' Court and posted in the office of the Clerk of the Orphans' Court. The Schedule shall list the audit date as provided in the annual Administrative Regulation and the last date to file an Account for inclusion on each particular audit date.

**O.C. Rule 2.9. Distribution of Real Estate.**

(a) Schedules of distribution shall include awards of real estate to the parties entitled thereto, whether individually, or, where the circumstances require, in undivided interests.

(b) The real estate so awarded shall be described in the same detail and with the same particularity as is commonly required to be included in deeds, must recite how title was acquired, list the tax parcel identification number and the name and address of the individual who is to receive real estate tax notices.

(c) Approval of schedules of distribution shall be in the nature of confirmation of title in the respective distributees and the Clerk of the Orphans' Court shall certify to integral excerpts or extracts from such schedules, so approved, for purposes of recording such devolutions of real estate in the office of the Recorder of Deeds.

(d) Whenever partition or allotment of real estate is requested by the accountant or a party in interest, the request shall be made at the audit and the auditing judge shall make such order, including a direction to submit evidence of title showing the current state of the title, if required, provisions for owelty, if any, the preparation of a schedule of distribution, notice to the parties and fixing the dates of further hearings, as may be necessary under the circumstances to protect all parties in the same particularity as is commonly required to be included in deeds and must recite how title was acquired.

(e) The following form shall be prepared by the attorney for the accountant and submitted to the Clerk of the Orphans' Court for execution on final confirmation of an adjudication awarding real estate:

**IN THE COURT OF COMMON PLEAS OF  
WASHINGTON COUNTY  
PENNSYLVANIA  
ORPHANS' COURT DIVISION**

IN RE: ) NO. 63 -  
 ) In the matter of the \_\_\_\_\_ AND  
ESTATE OF ) \_\_\_\_\_ ACCOUNT OF  
NAME OF DECEASED, ) (NAME OF PERSONAL REPRESENTATIVE)  
Deceased )

ADJUDICATION AND DECREE  
AND  
SCHEDULE OF DISTRIBUTION  
DATED  
(DATE)  
FILED

Including the following

REAL ESTATE TO BE CERTIFIED TO THE RECORDER OF DEEDS OF WASHINGTON COUNTY BY THE CLERK OF THE ORPHANS' COURT DIVISION \_\_\_\_\_ (name of deceased), decedent to (devisees/intestate heirs,) right, title, and interest of the decedent in and to the following described real estate:

**O.C. Rule 3.2. Filing, Indexing, and Dockets.**

(a) Each proceeding of the Orphans' Court Division shall be assigned a filing number by the Clerk of the Orphans' Court, which number shall consist of three groups of numbers separated by hyphens, the first group to be "63", the second to be the last two digits of the year of filing, and the third, the number of the proceeding, in numerical order, in the year in which filed. All papers subsequently filed relating to that matter shall bear the same number.

(b) All papers filed with the Register of Wills or Clerk of the Orphans' Court, including Inheritance Tax Returns, shall be indexed in the Electronic Retrieval System

(c) Papers filed with the Register of Wills or Clerk of the Orphans' Court, shall not be removed except by order of court, and petitions and court orders returned to attorneys for filing with the Clerk of the Orphans' Court shall first be docketed by a court officer and then filed promptly by such attorneys.

**O.C. Rule 3.9. Preliminary Objections.**

When preliminary objections are filed to any pleading or proceeding in the Clerk of the Orphans' Court after notice to opposing counsel, a copy shall be presented to the court at its Motions Session along with an original order for scheduling argument and briefs.

**O.C. Rule 5.10-1. Terms and Conduct of a Public or Private Sale.**

(a) All public or private sales shall be made for cash unless otherwise specifically ordered by the court and in no event shall a bid on the property be finally accepted unless at least ten (10%) percent of the proposed purchase price, or a sum sufficient to defray all costs of a resale in event purchaser fails to pay the balance, whichever is the greater amount, be immediately paid to the fiduciary conducting the sale.

(b) The fiduciary shall reserve the right to reject any bid for inadequacy of price or irresponsibility of bidder.

(c) Prior to calling for bids on any property being offered for public or private sales, the terms of sale, as set

forth in sub-paragraphs (a) and (b) of this Rule, shall be publicly announced, and at the same time notice shall be given of the time and place at which confirmation by the court will be requested.

**O.C. Rule 5.10-2. Return, Confirmation of Sale, and Security.**

(a) Returns of public or private sales of real property for the purpose of an approval or confirmation by the court shall be in the form of a petition by the fiduciary which shall set forth:

- (1) the manner in which notice was given;
- (2) the price obtained;
- (3) the name and address of the purchaser and that such purchaser was the highest bidder;
- (4) a complete copy of the written agreement of sale shall be attached;
- (5) whether any objections to the confirmation have been filed; and
- (6) a proposed final order of court approving or confirming the sale.

(b) On the return day of the sale, the court will entertain initial and subsequent bids for such property in increments of Five Hundred (\$500.00) Dollars, or five (5%) percent in excess of the bid returned, whichever is greater. In event any subsequent bid is offered, the purchaser named in the petition may retain his right to such property by matching the highest bid offered. All bids shall be subject to the requirements of Local Rule 5.10-1(a).

(c) On the return day of the sale, the court, in the decree approving or confirming the public or private sales, will fix the amount of bond or additional security which the fiduciary shall be required to enter, or will excuse the fiduciary from entering additional security.

**O.C. Rule 5.16. Settlement of Small Estates.**

(a) Petitions under Probate, Estates and Fiduciaries Code § 3102 for distribution of small estates shall set forth:

- (1) The name and address of the petitioner and his relationship to the decedent.
- (2) The name, date of death, and domicile of decedent, whether he died testate or intestate, the dates of the probate of the will and of the grant of letters if any, and whether the personal representative has been required to give bond, and in what amount.
- (3) The names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interest, whether any of them has received or retained any property of the decedent by payment of wages under Probate, Estates and Fiduciaries Code § 3101, or otherwise, and whether any of them are minors, incapacitated persons or deceased with the names of their fiduciaries, if any.
- (4) The person or persons, if any, entitled to the family exemption and, if a claim therefore is made in this petition, any additional facts necessary to establish the prima facie right thereto, as required by Rule 5.2.
- (5) An inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit.

(6) A list showing the nature, amount and preference of all unpaid claims against the estate and indicating which are admitted.

(7) If any unpaid beneficiary, heir, or claimant has not joined in the petition, a statement that ten (10) days' notice of intention to present the petition has been given in accordance with these rules.

(8) A prayer for distribution of the personal property to those entitled, and in appropriate cases for the discharge of the personal representative.

(b) There shall be attached to the petition the following exhibits:

- (1) The original of the decedent's will if it has not been probated, or a copy of the will if it has been probated.
- (2) Joinders of parties in interest.
- (3) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, distribution or the family exemption; and
- (4) Proof of payment of inheritance tax.

**O.C. Rule 7.1. Pre-Trial Conference.**

(a) In any action, the court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for conference to consider:

- (1) the simplification of the issues;
- (2) the necessity or desirability of amendments to the pleadings;
- (3) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) the limitation of the number of expert witnesses; and
- (5) such other matters as may aid in the disposition of the action.

(b) The court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action unless modified at trial to prevent manifest injustice.

**O.C. Rule 9.1. Notice by Auditors or Masters.**

Auditors or masters shall give notice of hearings held by them to all parties interested, or to their attorneys of record, in the manner provided in Rule 2.5. Notice of succeeding hearing given by the auditor or master at a hearing of which proper notice has been given shall constitute sufficient notice of each of such succeeding hearings.

**O.C. Rule 9.6. Notice and Objections.**

Auditors or masters shall, on or before the day of filing their reports, give notice of the filing of the same either personally or by mail to all interested parties of record or to their counsel of record. Proof of notice shall be attached to the report.

Any party interested party shall have the right to file objections to an auditor's or master's report within twenty (20) days of the filing thereof. If objections are filed the matter shall be argued before the court.

**O.C. Rule 9.7. Decree.**

If no objections are filed within ten (10) days of filing thereof, the court may enter a decree confirming the auditor's report or adopting the master's report.

**O.C. Rule 10.3. Fees for Hearings.**

The Register shall require a non-refundable fee for hearings in accordance with the Register of Wills and Orphans' Court fee bill, which is of record in the office of the Register of Wills.

**O.C. Rule 10.4. Form of Appeal from the Register of Wills.**

Appeals taken from the judicial acts or proceedings of the Register shall be addressed to the court, and filed in duplicate with the Register. The appeal shall be in the form of a petition, setting forth the nature of the proceedings before the Register, specifying the material points upon which it is based, and containing a concise statement of the relevant facts, and shall set forth the names of all interested parties and the necessary jurisdictional facts.

**O.C. Rule 10.4. Issuance of Citation.**

When an appeal has been perfected with the Register and the record has been transmitted to the Clerk of the Orphans' Court a citation shall issue as of course directed to all persons named in the appeal as interested parties to show cause why the appeal should not be sustained. The citation, with a copy of the appeal, shall be served as

provided by the Probate, Estates and Fiduciaries Code. The citation shall be made returnable to a day and time certain.

[Pa.B. Doc. No. 16-1304. Filed for public inspection July 29, 2016, 9:00 a.m.]

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## SUPREME COURT

### Relocation of Magisterial District 11-1-02 within the Eleventh Judicial District; No. 400 Magisterial Rules Doc.

#### Order

*Per Curiam*

*And Now*, this 12th day of July 2016, upon consideration of the Petition for Relocation of Magisterial District 11-1-02 of the Eleventh Judicial District (Luzerne County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Petition, which provides for the relocation of Magisterial District 11-1-02 within Luzerne County, outside of the boundaries of the magisterial district from which the judge is elected, to be effective immediately, is granted.

Said Magisterial District shall be located within the boundaries of Magisterial District 11-1-01 within Luzerne County.

[Pa.B. Doc. No. 16-1305. Filed for public inspection July 29, 2016, 9:00 a.m.]

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