

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 81]

Proposed Amendments to the Rules of Professional Conduct Regarding Statements Concerning Judges and Other Adjudicatory Officers and Impartiality and Decorum of the Tribunal

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to the Pennsylvania Supreme Court that it adopt amendments to Pennsylvania Rules of Professional Conduct (RPC) 3.5 relating to Impartiality and Decorum of the Tribunal and RPC 8.2 relating to Statements Concerning Judges and Other Adjudicatory Officers, as set forth in Annex A.

RPC 3.5 pertains to impartiality and decorum of the tribunal and prohibits improper influence, *ex parte* contacts, improper contacts with jurors, and conduct disruptive to the tribunal. In furtherance of ethical practice, lawyers should be familiar with the codes regulating the judiciary. Current Comment (1) to RPC 3.5 states "Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the ABA Model Code of Judicial Conduct, with which an advocate should be familiar." Proposed changes to Comment (1) provide that an advocate should be familiar with the Code of Judicial Conduct and the Rules Governing Standards of Conduct of Magisterial District Justices. These sets of rules are specific to Pennsylvania and replace the reference to the ABA Model Code.

In addition to the substantive changes, the Board takes this opportunity to make a typographical correction to RPC 3.5(c)(3).

RPC 8.2(b) states "A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct." Comment (2) explains that "When a lawyer seeks judicial office the lawyer should be bound by applicable limitations on political activity." This subdivision provides a jurisdictional link to applicable codes of judicial conduct, to assure continuous authority over lawyers in transition from one status to another. In addition to the Code of Judicial Conduct, the Rules Governing Standards of Conduct of Magisterial District Justices ("MDJ Conduct Rules") also proscribe certain conduct by candidates for the office of magisterial district judge. Proposed amendments to subdivision (b) will reflect the provisions of both the Code of Judicial Conduct and the MDJ Conduct Rules. Specifically, the language "or who is a candidate for magisterial district judge" and "and/or the Rules Governing Standards of Conduct for Magisterial District Judges, as applicable" will be added to 8.2(b) to ensure that those lawyers who are judicial candidates comply fully with all applicable rules.

Interested persons are invited to submit written comments by mail or facsimile regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, PO Box 62625, Harrisburg, PA 17106-2625, Facsimile number (717)-231-

3382), Email address Dboard.comments@pacourts.us on or before September 16, 2016.

*By the Disciplinary Board of the
Supreme Court of Pennsylvania*

ELAINE M. BIXLER,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

ADVOCATE

Rule 3.5. Impartiality and Decorum of the Tribunal.

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate *ex parte* with such a person during the proceeding unless authorized to do so by law or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(1) the communication is prohibited by law or court order;

(2) the juror has made known to the lawyer a desire not to communicate; or

(3) the communication involves misrepresentation, coercion, duress [of] or harassment; or

(d) engage in conduct intended to disrupt a tribunal.

Comment:

(1) Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the [ABA Model] Code of Judicial Conduct and/or the Rules Governing Standards of Conduct for Magisterial District Judges, with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of such provisions.

* * * * *

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.2. Statements Concerning Judges and Other Adjudicatory Officers.

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) A lawyer who is a candidate for judicial office, or who is a candidate for magisterial district justice, shall comply with the applicable provisions of the Code of Judicial Conduct and/or the Rules Governing Standards for Magisterial District Judges, as applicable.

* * * * *

[Pa.B. Doc. No. 16-1346. Filed for public inspection August 5, 2016, 9:00 a.m.]

Title 255—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Orphans' Court Rules; No. CP-03-AD-0000001-2016

Order of Court

And Now, this 21st day of July, 2016, the following rules are hereby *Adopted* as the Local Orphans' Court Rules of the Court of Common Pleas and its Orphans' Court Division, effective thirty (30) days after the date of publication in the *Pennsylvania Bulletin*:

CHAPTER I. PRELIMINARY RULES

Rule 1.1.1. Short Title and Citation.

These Rules shall be known as the Local Orphans' Court Rules, shall be referred to individually as "Rule," and cited as "L.O.C. Rule _____."

Rule 1.6.1. Court-Ordered Mediation.

The Court, upon motion of an interested party or upon its own motion, may order parties in a particular matter to participate in private mediation or in court-supervised mediation. The Court shall determine who shall bear the costs thereof, either prior to such mediation or afterwards. The Court may direct an interested party to advance the costs of such mediation and direct reimbursement to such interested party as may be appropriate under the circumstances.

Rule 1.8(c). Cover Sheet.

A cover sheet in the following form shall be attached to every petition filed pursuant to Chapter III of the Pennsylvania Orphans' Court Rules; every set of objections to an account filed pursuant to Pa.O.C. Rule 2.7; and every set of objections to an inventory filed pursuant to 20 Pa.C.S. § 3305:

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

COVER SHEET

for a Petition, for an Objection to an Account, or for an Objection to an Inventory

Basis of Orphans' Court Jurisdiction (Check One)			
<input type="checkbox"/> Decedent's Estate	<input type="checkbox"/> Trust	<input type="checkbox"/> TPR or Adoption	<input type="checkbox"/> Incapacitated Person
<input type="checkbox"/> Minor	<input type="checkbox"/> Power of Attorney		<input type="checkbox"/> Non-Profit Corporation
<input type="checkbox"/> Other (specify) _____			

Filing Party's Relationship to Entity or Person checked above		
<input type="checkbox"/> Personal Representative	<input type="checkbox"/> Parent or Guardian	<input type="checkbox"/> Trustee
<input type="checkbox"/> Heir	<input type="checkbox"/> Adopting Parent	<input type="checkbox"/> Trust Beneficiary
<input type="checkbox"/> Creditor	<input type="checkbox"/> Corporate Officer	<input type="checkbox"/> Agent (POA)
<input type="checkbox"/> Other: _____		

Court Paper Being Filed

Name of Filing Party

Address of Filing Party

To the Clerk of Orphans' Court Division: Please enter my appearance on behalf of the Filing Party	
_____ Signature of Filing Attorney or Party	Date:

Name of Filing Attorney

Address of Filing Attorney

Telephone Number/Fax Number

On the reverse side, indicate the name and address of each interested party in this proceeding, as well as the name and address of each such party's attorney of record, if any.

Has any proceeding connected to this estate been heard by a judge of this Court?

- Yes No

If yes, which judge:

Is there any proceeding connected to this estate now pending before a judge of this Court?

- Yes No

If yes, which judge:

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.4.1. Decree Confirming Account and Petition, and Approving Proposed Distribution, if any. Form.

(a) A decree which will confirm the account and approve the petition for adjudication/statement of proposed distribution shall accompany the papers filed pursuant to Pa.O.C. Rule 2.4.

(b) The decree shall be in the following form, but it shall be modified appropriately if no distribution is being proposed:

[CAPTION]

DECREE CONFIRMING ACCOUNT AND APPROVING AND DIRECTING DISTRIBUTION

AND NOW, this ___ day of ___, 2___, it appearing to the Court that no objection has been filed to the Account or Petition for Adjudication/Statement of Proposed Distribution; NOW, THEREFORE, the Account is confirmed, the Petition and Statement are approved, and the accountant is hereby directed to make distribution in accordance therewith.

BY THE COURT, _____ J.

Rule 2.5.1. Time for Filing Account.

(a) An account must be filed with the Clerk of the Orphans' Court Division no later than thirty (30) days before the regularly scheduled confirmation date published in the annual Court calendar upon which the accountant desires to have the account presented to the Court for confirmation.

(b) Notice of the filing with the Clerk shall be given by the accountant to all interested parties at least twenty (20) days prior to the date when the same will be presented to the Court for confirmation and approval.

Rule 2.5.2. Notice of Filing. Form.

Notice of the filing of an account, a petition for adjudication/statement of proposed distribution, and a proposed decree shall be substantially in the following form:

[CAPTION]

NOTICE

Attached is a true and correct copy of the account of _____ and a proposed decree, which was filed in the Office of the Clerk of the Orphans' Court Division on _____, 2___.

Also filed on the same date and attached hereto is the following (check one):

- Petition for Adjudication
Petition for Adjudication including Statement of Proposed Distribution

All these legal papers will be presented to the Court for approval and confirmation on _____, 2___, unless written objections to one or more of them is filed before such date with the Clerk of the Orphans' Court Division.

Date: _____

Attorney

Address: _____

Rule 2.9.1. Distribution Determined by Auditor.

After confirmation of an account when no distribution has been proposed, an accountant may petition the Court for the appointment of an auditor to determine distribution.

CHAPTER III. PETITION PRACTICE AND PLEADING

Rule 3.2.1. Headings; Captions.

(a) Pleadings shall be captioned "Court of Common Pleas of Armstrong County, Orphans' Court Division".

(b) The heading of any petition, pleading or other court paper shall identify with particularity the nature of the paper being filed.

(c) The caption and heading shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF ARMSTRONG COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

ESTATE OF JANE SMITH : No. _____ (Petition for Removal of : Co-Executors, filed by John Doe) :

Attorney for Petitioner

ANSWER OF CO-EXECUTORS TO PETITION FOR THEIR REMOVAL

As noted in the parenthetical material set forth in the required format, the caption must identify the petition which commenced the proceeding.

Comment

"Petition for Citation", "Answer", "Preliminary Objections", and "Exceptions" are examples of headings that will not be in compliance with this Rule.

Rule 3.4.1. Preliminary Decree Where Citation is Sought.

In the case of a petition requiring a citation under Pa.O.C. Rule 3.5(a), the petition shall have attached thereto a proposed preliminary decree substantially in the following form:

[CAPTION]

PRELIMINARY DECREE AWARDING CITATION

AND NOW, this _____ day of _____, 2____, upon presentation and consideration of the foregoing Petition (for) (to) _____, it is hereby ORDERED that a citation be awarded, directed to _____, to show cause why the relief prayed for therein should not be granted. The citation shall be returnable within twenty (20) days of the date of its service upon the person cited.

BY THE COURT, _____ J.

Comment

In the Orphans' Court, a citation is the proper process by which initial personal jurisdiction over the person is obtained. In re: Hicks' Estate, 414 Pa. 131, 199 A.2d 283 (1964).

Rule 3.5.1. Mode of Proceeding on Petition When No Answer is Filed.

(a) If a respondent fails to file an answer to a petition, the averments of fact set forth in the petition shall be deemed to have been admitted and the Court may enter a decree granting the prayer of the petition, subject to the provisions of subsection (c), below.

(b) In any proceeding in which an answer to a petition is not filed, after the passing of the return date or notice period, as applicable, a petitioner may file a praecipe with the Clerk directing the Clerk forthwith to transmit the file to the Court for review and possible adjudication. The praecipe shall be in the following form:

[CAPTION]

PRAECIPE TO TRANSMIT RECORD

TO THE CLERK OF THE ORPHANS' COURT DIVISION:

I, the undersigned, hereby direct the Clerk of the Orphans' Court Division forthwith to transmit the record of this matter, including this praecipe, to the Court for review and action. I certify that notice of (type of petition) was served upon all parties in interest and that the required proofs of service have been filed.

The date of service of the last notice to be served was _____, 2____.

(c) After receipt of the record transmitted to the Court pursuant to subsection (b), above, the Court will review the record to determine its adequacy and will review the proposed prayer for relief to determine its appropriateness. The Court may enter an appropriate order thereafter or it may cause a pre-hearing conference or hearing to be scheduled.

(d) This Rule applies both to proceedings requiring personal jurisdiction and those that do not.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.1.1. Declaratory Judgment.

Comment

The declaratory judgment action is the preferred way to resolve disputes involving interpretation of wills, trusts, or other instruments.

Rule 5.6.1. Appointment of a Guardian for the Estate or Person of a Minor.

(a) A hearing shall be held upon every petition filed for the appointment of a guardian of the person or the estate of a minor, even if the consents of all parties in interest are attached and even if no objection to the petition is filed by any party in interest.

(b) The petitioner shall proceed by notice as set forth in subsection (c) of the Rule.

(c) If a living parent of the minor is not one of the petitioners in the petition for appointment, the petitioner shall serve notice of the hearing upon such parent. The notice shall also be served on any adult who has had physical custody of the minor within the one-year period immediately prior to the filing of the petition. The notice must be served at least twenty (20) days prior to the hearing.

(d) The proposed guardian and any minor age six (6) or older shall appear at the hearing.

(e) All bonds shall be filed with the Clerk within thirty (30) days of the date of appointment. Failure to file the bond may be deemed to be a refusal of the appointment.

(f) The notice required by subsection (b) of this Rule shall be in the following form:

[CAPTION]

NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN OF MINOR

TO: Name of Person

TAKE NOTICE that a Petition for the Appointment of a Guardian of (the person, the estate or both) has been filed by (name of petitioner) seeking the appointment of (name of proposed appointee). A hearing will be held on (day of week), _____, 2____ at _____ M. in Courtroom No. _____ of the Armstrong County Courthouse in Kittanning, Pennsylvania.

You may file written objections to the Petition with the Clerk of the Orphans' Court Division at any time before the hearing is held. Even if you do not file written objections, you may appear at the hearing and be heard if you wish.

Attorney
Address
Telephone Number

Rule 5.16.1. Form of Petition—Settlement of Small Estate.

(a) This Rule applies to all petitions filed pursuant to 20 Pa.C.S. § 3102, pertaining to settlement of small estates upon petition.

(b) A petition for settlement of a small estate shall include the following:

- (1) the name and address of each petitioner;
- (2) the decedent's date of death and domicile at the time of death, together with a statement that an original death certificate is attached;
- (3) a statement whether the decedent died testate or intestate and, if testate, that the original copy of the will is attached; or that it cannot be produced and the reason therefor and that a photocopy of it is attached.
- (4) the name and address of each testate or intestate heir, as applicable.
- (5) the name and addresses of all claimants known by the petitioner, including creditors of the decedent on the date of death, providers of funeral services, providers of goods and services to the petitioner arising from settlement of the estate, together with the amounts claimed by each, even if the claims have been satisfied before the filing of the petition, together with a notation of which such claims remain unsatisfied;
- (6) all assets of decedent's estate, other than real estate, and the value of each;
- (7) in the event that it appears that all claimants cannot be paid in full, all assets in which the decedent had an interest as a joint tenant with right of survivorship, together with the value of each such asset and decedent's fractional interest therein;
- (8) a statement that a Pennsylvania inheritance tax return need not be filed and the reason therefor; or, in the alternative, that one has been filed, that all taxes due thereon have been paid, and that proof of such payment is attached to the petition; or, in the alternative, the reason why the same has not occurred;
- (9) the name of each proposed distributee and their respective proposed distributions;
- (10) the name of each person who has consented to or joined in the prayer of the petition, together with a statement that the consent is attached; and
- (11) any other relevant information.

(c) The following items shall be attached to a petition for settlement of a small estate:

- (1) an original death certificate;
- (2) the decedent's will, if any;
- (3) proof of payment of the Pennsylvania inheritance due under the return actually filed;
- (4) original copies of consents, joinders, and statements of no objection signed by interested parties; and
- (5) a proposed decree of distribution.

CHAPTER IX. AUDITORS AND MASTERS**Rule 9.1.1. Notice of Hearings.**

(a) The auditor or master shall fix a date, time and place for hearing and shall give written notice of the hearing to the accountant, objector or petitioner and to all interested parties or their counsel of record by first class mail at least twenty (20) days prior thereto. In the event notice cannot be given in such manner, notice shall be

given by advertisement one time in the Armstrong County Legal Journal and one time in a newspaper of general circulation in the county where the decedent resided. The date of publication shall be at least twenty (20) days prior to the hearing.

(b) the notice shall include the following:

- (i) the caption and number of the case;
- (ii) the fact and date of appointment;
- (iii) the name of the personal representative of the estate
- (iv) the time and place of hearing;
- (v) a general statement of the matters to be determined; and
- (vi) the signature and the typewritten name, address and telephone number of the auditor or master.

Rule 9.1.2. Conduct of Hearing.

(a) All hearings before an auditor or master shall be conducted in accordance with the Pennsylvania Rules of Evidence.

(b) The hearings may be continued or adjourned from time to time by the auditor or master for cause shown or upon agreement of all parties present, but each continuance or adjournment shall be to a day certain not more than thirty days distant.

(c) Auditors and masters shall have the authority to administer oaths to witnesses.

(d) Auditors and masters shall have the authority to issue subpoenas, including subpoenas duces tecum.

(e) With leave of court, the auditor or master may retain experts as an aid in the performance of appointed duties. Leave may be obtained by motion presented in Motions Court pursuant to the Local Rules of Civil Procedure. All parties in interest shall receive notice of the presentation of such a motion.

(f) Evidentiary hearings before an auditor or master shall be recorded by stenographic and not electronic means.

Rule 9.6.1. Notice of Filing of Report. Form of Notice.

(a) An auditor or master shall timely file the report with the Clerk and simultaneously serve notice thereof upon the accountant or objector and all other interested parties who appeared at the hearing. The notice shall be given by first class mail. A copy of the report shall be attached to the notice. Proof of service of the notice shall be filed immediately after mailing of the same. A copy of the notice shall be attached to the proof.

(b) The notice shall be in the following form:

[CAPTION]

**NOTICE OF FILING AUDITOR'S (MASTER'S)
REPORT**

TAKE NOTICE, that the undersigned, the duly appointed auditor, (master,) filed his (her) Report with the Clerk of the Orphans' Court Division on _____, 2____. A copy of the Report is attached.

Under the Local Orphans' Court Rules, you have twenty (20) days from the date the Report was filed to file written exceptions to it with the Clerk of the Orphans'

Court Division. If you fail to do so, the Court may confirm the Report (may adopt the recommendations of the Report).

Auditor (Master)

Rule 9.7.1. Confirmation of Auditor's Report.

Unless exceptions to an auditor's report are timely filed, the report will be confirmed by the Court. The Clerk shall transmit the report as of course so it may be so confirmed.

Rule 9.7.2. Confirmation of Master's Report.

Unless exceptions to a master's report are timely filed, the Court will adopt its recommendations. The Clerk shall transmit the report to the Court as of course so its recommendations may be so adopted.

Rule 9.7.3. Exceptions to Auditor's Report or Master's Report Time.

(a) Exceptions to an auditor's report or a master's report, must be filed within twenty (20) days after its date of filing. If a party files timely exceptions, any other party may file cross exceptions within twenty (20) days after the filing of exceptions.

Rule 9.7.4. Form of Exceptions. Place of Filing.

(a) Exceptions to an auditor's report, or master's report, shall be in writing filed with the Clerk.

(b) Exceptions shall be set forth in consecutively numbered paragraphs, each paragraph raising but one issue, and stating the ground or grounds therefor. Exceptions shall be signed by the exceptant or the exceptant's attorney.

Rule 9.8.1. Security for Expenses and Fees.

An auditor or master, the accountant, or any interested party may apply to the Court at any time for leave to require security for the payment of the auditor's or master's expenses and fees, and, when such leave is granted, the auditor or master may decline to proceed until security is entered.

CHAPTER X. REGISTER OF WILLS

Rule 10.3.1. Hearings.

Evidentiary hearings before the Register shall be recorded by stenographic means and not by electronic means.

Rule 10.4.1. Appeals from the Register of Wills. Petition. Citation.

(a) Appeals from a judicial act or decision of the Register of Wills shall be by petition directed to the Court.

(b) When a petition for appeal has been filed with the Court, the Register of Wills shall cause the record to be certified to the Court and properly docketed in the Orphans' Court Division dockets.

(c) After the record has been certified and docketed as required in subparagraph (c) of this rule, the Court will award a citation directed to all parties in interest.

Rule 10.7. Petition to Compel Filing of Inventory or Supplemental Inventory. Objections to Inventory.

(a) All petitions to compel the filing of an inventory or a supplemental inventory required by 20 Pa.C.S. § 3301 and § 3303, respectively, shall be filed with the Clerk of the Orphans' Court Division, and not with the Register of Wills.

(b) All objections to an inventory or supplemental inventory filed pursuant to 20 Pa.C.S. § 3305 shall be filed with the Clerk of Orphans' Court Division, and not with the Register of Wills. All such objections shall be in writing with consecutively numbered paragraphs, signed by counsel, or it not represented by counsel, or if not represented by counsel, then by all the objectors. Objections must be verified by at least one of the objectors. Each objection shall be specific. The pleadings allowed after the filing of such objections shall be governed by Pa.O.C. Rule 2.8(a) and (b).

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule 14.2.1. Petition for Appointment of Guardian of Incapacitated Person. Preliminary Order.

The petition for appointment of guardian of incapacitated person shall have attached thereto a preliminary order of Court in the following form:

[CAPTION]

PRELIMINARY ORDER

AND NOW, this _____ day of _____, _____, the foregoing Petition for Appointment of Guardian having been presented to the Court, upon consideration thereof, it is ORDERED that a Citation be awarded, directed to the above-named alleged incapacitated person, 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 time and place of hearing on the petition are fixed for _____, _____, _____, at _____ M. in Courtroom No. _____ of the Armstrong County Courthouse, Kittanning, Pennsylvania.

The petitioner shall give notice to all persons who are residing within the Commonwealth of Pennsylvania 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.

In addition, the petitioner shall also give notice to the following persons: _____

BY THE COURT,

_____, J.

Rule 14.2.2. Service of Notice of Filing of Petition and Hearing Upon Persons Other than the Alleged Incapacitated. Proof of Service. Form.

(a) Notice of the petition for appointment of guardian and hearing shall be served upon all persons who are residing within the Commonwealth of Pennsylvania 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 services providers. Service of such notice must be given at least twenty (20) days in advance of the hearing.

(b) Proof of service of the notice shall be presented to the Court at time of hearing.

(c) The notice required by this Rule shall be in the following form:

[CAPTION]

NOTICE OF PETITION FOR APPOINTMENT OF GUARDIAN AND HEARING

TO: (Name of Person)

TAKE NOTICE that a Petition for Appointment of Guardian of the Person and/or the Estate has been filed by (name of petitioner) in connection with this matter. A copy of the petition is attached.

The Court will hold a hearing upon the petition on (day of week), _____, 2____ at ____M. in Courtroom No. ____ of the Armstrong County Courthouse, Kittanning, Pennsylvania. You may appear at that time and be heard if you wish.

 Attorney
 Address
 Telephone Number

Rule 14.2.3. Appointment of Counsel. Application.

The petitioner shall notify the Court at least seven (7) days prior to the final hearing upon the petition if counsel has not been retained by or on behalf of the alleged incapacitated person. Such notification shall consist of an application alleging the same and requesting the appointment of an attorney. Notice in advance of the presentation of such application is not required.

Rule 14.2.4. Emergency Guardian.

(a) A separate petition for appointment of an emergency guardian shall be filed.

(b) After a petition for the appointment of an emergency guardian has been filed, the matter shall proceed on citation and hearing. The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable, except when the Court has found that such provisions are not feasible under the circumstances. If a petitioner believes that one or more provisions of 20 Pa.C.S. § 5511 are not feasible under the circumstances, the petitioner shall state the factual basis for the same, and the Court may, in its discretion, dispense with compliance in the order awarding the citation. If not all required provisions have been complied with by the time of the hearing upon the petition, the Court may, in its discretion at the hearing, further dispense with compliance, if compliance is shown to have been unfeasible.

(c) The citation issued in connection with a petition for appointment of emergency guardian shall be modeled after the citation prescribed by Pa.O.C. Rule 14.5, with appropriate changes. A proposed citation shall be presented to the Court for review at the time the petition is presented.

(d) The petition shall have attached to it a preliminary order of court (emergency guardian) in following form:

[CAPTION]

PRELIMINARY ORDER (Emergency Guardian)

AND NOW, this _____ day of _____, _____, the foregoing Petition for Appointment of Emergency Guardian having been presented in open Court, upon consideration thereof, it is ORDERED that a Citation be awarded, directed to the above-named alleged incapacitated person, to show cause why an emergency plenary/limited guardian of his/her person and estate should not be appointed.

The time and place of hearing on the petition are fixed for _____, _____, 2____, at ____M. in Courtroom No. ____ of the Armstrong County Courthouse, Kittanning, Pennsylvania.

The Court finds that

[] Service of notice of the hearing on the petition for emergency guardian is not feasible under the circumstances and is waived.

[] Notice of the hearing to the following persons is feasible under the circumstances and directs that the same be given as indicated:

[] Strict compliance with 20 Pa.C.S. § 5511(e); relating to contents of the petition, is not feasible under the circumstances and is waived.

[] Strict compliance with 20 Pa.C.S. § 5511(a), pertaining to the right to counsel, is not feasible under the circumstances and is waived in connection with the petition for appointment of emergency guardian only.

BY THE COURT, _____ J.

Rule 14.2.5. Telephone Testimony.

If all parties or their attorneys of record agree, the Court will receive the testimony of a physician or other expert witness by telephone. In the event there is no such agreement, the Court will nonetheless consider permitting the same upon motion of any party presented at Motions Court in accordance with the Local Rules of Civil Procedure.

CHAPTER XV. ADOPTION

Rule 15. Petitions Filed Pursuant to Chapter XV of the Pennsylvania Orphans' Court Rules.

No more than one child may be the subject of a petition for voluntary relinquishment to an agency; for voluntary relinquishment to adult intending to adopt child; to confirm consents for an adoption; or for adoption.

Rule 15.4.1. Petition for Involuntary Termination of Parental Rights. Form of Notice.

The notice required by 23 Pa.C.S. § 3513(b) shall designate the "Prothonotary of Armstrong County, Room 103, Armstrong County Courthouse, Kittanning, PA 16201 (telephone: 724-548-3252)" as the person from whom information can be obtained about legal help.

By the Court

KENNETH G. VALASEK,
President Judge

[Pa.B. Doc. No. 16-1347. Filed for public inspection August 5, 2016, 9:00 a.m.]

CUMBERLAND COUNTY

Rules of the Court of Common Pleas; No. 21-95-945 Orphans Court

Order of Court

And Now, this 25th day of July, 2016, the following Rules of the Court of Common Pleas of Cumberland

County, Pennsylvania, are hereby promulgated and adopted for use, effective September 6, 2016.

Pursuant to R.J.A. 103(d), the Court Administrator is directed to distribute two (2) paper copies of the rules and a copy on a computer diskette, CD-ROM, or other agreed upon alternate format that complies with the requirements of 1 Pa. Code § 13.11(b) to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, file one (1) copy of the rules with the Administrative Office of Pennsylvania Courts, publish a copy of the rules on the county website, incorporate the rules in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*, and forward one (1) copy to the *Cumberland Law Journal*.

The rules shall be kept continuously available for public inspection and copying in the office of the prothonotary and on the county website.

By the Court

EDWARD E. GUIDO,
President Judge

RULES OF THE COURT OF THE NINTH JUDICIAL DISTRICT, COURT OF COMMON PLEAS, ORPHANS' COURT DIVISION

CHAPTER I. PRELIMINARY RULES

Rule 1.1. Short Title and Citation.

These Rules shall be known as Cumberland County Orphans' Court Rules and shall be cited as C.C.O.C.R.

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.

(b) Upon the filing of a Pleading before the Court, including an account filed by a fiduciary, 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, 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 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 (35 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.

Note: Local rule based on proposed Model Local OC Rule 1.6 recommended by Subcommittee of PBA's Alternative Dispute Resolution Committee.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.6. Filing with the Clerk.

(a) Accounts to be confirmed shall be filed not later than 4:30 p.m. (Eastern Prevailing Time) of the fifth Friday preceding the date fixed for confirmation of accounts.

(b) The Court Calendar, including the dates for confirmation of accounts, shall be determined in accordance with C.C.R.P. 551.

(c) Advertisement by the Clerk as required by PEF Code § 745, shall be in the *Cumberland Law Journal* and *The Sentinel*.

(d) The advertisement of the account shall indicate whether a statement of proposed distribution is included.

Note: Formerly Local Rule 6.4-1., 1.2-3., and 6.9-3. No equivalent Pa.O.C. Rules.

Rule 2.9. Confirmation of Accounts; Awards.

(c) If no objections are filed to the statement of proposed distribution, the Court may, on the day fixed for the presentation thereof, make a final decree directing distribution in accordance with the statement of proposed distribution.

Note: Local rule based on former C.C.O.C.R. 6.11-1.

Rule 2.11. Appointment of Official Examiners.

Rules pertaining to auditors and masters in Chapter IX of Pa.O.C. Rules shall extend to official examiners insofar as applicable.

Note: Local rule based on former C.C.O.C.R. 9.1-1. See PEF Code § 751.

CHAPTER III. PETITION PRACTICE AND PLEADING**Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification.**

(b) Where notice of the entry of any decree is required, the petitioner or moving party shall include in the proposed decree, the names of all parties or their counsel, if represented, who are required to be notified of the proposed decree, and shall provide the Clerk with stamped envelopes addressed to the said parties or their counsel, if represented.

Rule 3.7. Time for Filing and Service of Responsive Pleadings.

(e) *Disposition of Matters after Pleadings are Closed—No Answer.* If no responsive pleading is filed, upon proof of service of the citation or notice and the petition, the Court may grant the desired relief requested.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS**Rule 5.16. Small Estates.**

Petitions for settlement of small estates under PEF Code § 3102 shall set forth:

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

(b) The name, date of death and domicile of decedent;

(c) Whether the decedent died testate or intestate, the date of the probate of the will, if applicable, and the date of grant of letters, if any, and whether the personal representative has been required to give bond and, if so, the amount of the bond;

(d) The name and relationship 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 PEF Code § 3101, or otherwise, and whether any of them is a minor, incapacitated or deceased with the name of his fiduciary, if any;

(e) The person(s), if any, entitled to the family exemption and, if a claim therefore is made in the petition, any additional facts necessary to establish the right to the family exemption;

(f) An inventory of the real and personal estate of the decedent, the value ascribed to each item, either incorporated in the petition or attached as an exhibit;

(g) A list showing the nature, amounts and preferences of all unpaid claimants against the estate and indicating which claims are admitted;

(h) If any unpaid beneficiary, heir or claimant has not joined in the petition, a statement that notice of the intention to present the petition has been given as required by Pa.O.C. Rule 4.2; and

(i) A prayer for distribution of the personal property to those entitled, and in appropriate cases, for the discharge of the personal representative.

(j) 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 thereof if it has been probated;

(2) The joinders or consents 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, items of distribution or the family exemption; and

(4) A certificate of the Register showing the status of payment of the inheritance tax.

(k) No appraisal shall be required unless ordered by the Court.

Note: Formerly Local Rule 6.11-2. No equivalent in Pa.O.C. Rules.

CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE**Rule 7.5. Argument Court.**

The procedure for disposition of matters at argument court shall be as follows:

(a) The matter shall be listed by filing a praecipe with the Clerk. The party listing the case for argument shall serve a copy of the praecipe on all counsel or any unrepresented party.

(b) The Clerk shall promptly coordinate with the Prothonotary's Office to place the matter on the next regularly scheduled session of argument court.

(c) Otherwise, C.C.R.P. 1028(c) shall be applicable.

Note: No prior equivalent C.C.O.C.R. The rule is recommended to coordinate the procedure for Orphans' Court matters with C.C.R.P. and to codify local practice.

CHAPTER IX. AUDITORS AND MASTERS**Rule 9.1. Notice of Hearings.**

(a) On appointment, the auditor shall schedule a hearing and give notice thereof to all parties in interest at least twenty days prior to the hearing in accordance with Chapter IV of Pa.O.C. Rules.

(b) Rules pertaining to auditors shall extend to masters insofar as applicable.

Note: Local rule based on former C.C.O.C.R. 8.1-1 and 8.1-2. See PEF Code § 751.

Rule 9.2. Filing of Report.

Reports of auditors and masters shall be filed with the Clerk.

Note: Local rule based on former C.C.O.C.R. 8.2-1.

Rule 9.6. Notice of Filing of Report.

The auditor or master shall give notice of filing the report to all interested parties.

Note: Local rule based on former C.C.O.C.R. 8.6-1. See also Chapter IV of Pa.O.C. Rules, and PEF Code §§ 764, 766, 767 and 768.

Rule 9.7. Confirmation of Report.

(a) If no objections are filed, the Clerk shall transmit the auditor’s report to the Court for confirmation. If objections are filed, the Court shall, after argument, make such disposition as the Court shall determine.

(b) Objections to the auditor’s report shall be filed with the Clerk within twenty days after service of the notice of filing of said report. Objections shall be specific as to the basis of the objections whether as to the findings of fact or conclusions of law, or both.

(c) If objections are filed, any interested party may list the matter for argument in accordance with C.C.O.C.R. 7.5.

Note: Local rule based on former C.C.O.C.R. 8.7-1, 8.7-2 and 8.7-3.

CHAPTER X. REGISTER OF WILLS

Rule 10.2. Petition Practice.

When offering for probate a holographic will or will containing alterations from the original instrument, petitioner shall attach a typewritten version of what petitioner proffers the will to read.

Rule 10.4. Appeals from the Register of Wills.

Appeals taken from the judicial acts or proceedings of the Register shall be filed with the Register, addressed to the Court and shall set forth the following information insofar as appropriate:

- (a) The nature of the proceedings before the Register;
- (b) The basis for the appeal, including the facts or circumstances upon which the appeal is based; and
- (c) The names and addresses of all interested parties, including any not a party of record.

Note: Local rule based on former C.C.O.C.R. 10.2-1. See PEF Code § 908.

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**LEBANON COUNTY
Orphans’ Court Rules**

**CHAPTER 1. LOCAL RULES OF ORPHANS’ COURT
DIVISION**

1.1. Short Title and Citation.

These rules adopted by the Court of Common Pleas—Orphans’ Court Division of Lebanon County, Pennsylvania, as amended or supplemented, shall be known as the Lebanon County Orphans’ Court Rules and may be cited as “Leb.Co.O.C.R. No. _____.”

1.7. Attorneys: Members of the Bar and Practice.

No person, other than attorneys who have been admitted to the Bar of the Supreme Court of Pennsylvania, shall be permitted to enter an appearance on behalf of any party. The entry of appearance by counsel shall be in accordance with Leb.Co.C.C.P. Rule 52-1012.

**CHAPTER 2. ACCOUNTS, OBJECTIONS AND
DISTRIBUTIONS**

2.9. Confirmation of Accounts. Awards.

Unless the Court directs otherwise all accounts and statements of proposed distribution shall be presented to the proper Court for confirmation Nisi on the first Monday of each month, except during the month of July. If no objections are filed thereto, the Clerk of the proper Court shall confirm said accounts twenty (20) days thereafter, which confirmation shall constitute an adjudication of such accounts, and a final decree approving the statements of proposed distribution and directing distribution in accordance therewith, shall thereupon be made and entered by the Clerk of the respective Court. In the event the first Monday of the month falls on a holiday or if the dates of confirmation fall on a holiday the accounts and statements of proposed distribution shall be confirmed the following day. In the case of the request for the appointment of an Auditor, the auditor shall not be appointed until twenty (20) days after the account or statement of proposed distribution would have been confirmed had no objections been filed.

2.11. Appointment of Official Examiners.

The Court, by Special Order, may appoint an official examiner or examiners who shall examine the assets held by any fiduciary in his fiduciary capacity.

CHAPTER 3. RESPONSIVE PLEADINGS

3.5. Rule to Show Cause.

(A) A rule to show cause shall be issued as of course upon the filing of a contested petition. The rule shall direct that an answer be filed to the petition within twenty (20) days after service of the petition on Respondent.

(B) The Court may grant a stay of proceedings.

(C) The Petitioner shall attach to the petition a proposed order substantially in the following form:

(CAPTION)

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing petition, it is HEREBY ORDERED as follows:

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 twenty (20) days of service upon the Respondent;
3. The petition shall be decided under PA.R.C.P. No. 206.7;
4. Depositions shall be completed within _____ days of this date;
5. Argument shall be held on _____, 20____ in Courtroom ____ of the Lebanon County Court-house; and
6. Notice of the entry of this order shall be provided to all parties by the Petitioner.

BY THE COURT:

_____ J.

(D) If an answer is not filed, all averments of fact in the petition may be deemed admitted for the purposes of this subdivision and the Court may enter an appropriate order upon request of the Petitioner.

(E) If an answer is filed raising no disputed issues of material fact, the Court upon filing of a praecipe for disposition shall decide the petition on the petition and answer.

(F) If an answer is filed raising disputed issues of material fact, the Petitioner may take depositions on those issues, or such other discovery as the Court allows, within the time set forth in the order of the Court or the Court may schedule a hearing on the disputed facts. If the Court does not schedule a hearing and the Petitioner does not take depositions or conduct such other discovery, the petition shall be decided, upon the filing of a praecipe for disposition, on the petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted for the purpose of this subdivision.

(G) The Respondent may take depositions, or such other discovery as the Court allows.

CHAPTER 5. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

5.2. Family Exemption.

A. *Time for Filing.* Unless the Court extends the time for so doing, all claims for the family exemption shall be made within one (1) year after the death of the decedent or within one (1) year after letters have been first advertised if a personal representative is appointed. A personal representative may petition the Court for a rule upon any person prima facie entitled to the family exemption to show cause why the said claim should not be made prior to the expiration of the aforesaid one year period.

B. Personal Property.

1. Any person or persons who are entitled to retain or claim any personal property for or on account of the family exemption under Chapter 31, Section 3121 of the Decedents, Estates and Fiduciaries, P.L. 508 (20 Pa.C.S.A. § 3121) and its amendments may retain or claim cash and such other property as may qualify for said exemption at the values fixed by the inventory and appraisal, by mailing or delivering written notice of such retention or claim to the personal representative or representatives of the estate; to the attorney for the estate, if any; to the person having possession of said property if the possessor is other than the claimant or personal representative; and to all interested parties.

2. If no inventory and appraisal has been filed or if said articles claimed do not appear on the inventory and appraisal, any adult person or persons who desire to retain or claim personal property for or on account of said family exemption shall file a petition to the Court which shall set forth sufficient facts establishing a prima facie right of the Petitioner or Petitioners to the exemption and the articles claimed and the values of all articles claimed which have indefinite values and the manner by which the said value were ascertained. The Petitioner may attach an affidavit of one or more qualified persons as to the values of said articles.

3. Notice of the filing of any such petition shall be mailed or delivered to the personal representative or representatives of the decedent's estate, if any; to the attorney for the estate, if any; to the person having possession of the personal property claimed if the possessor is other than the Petitioner or the personal representative; and to all interested parties in said estate as surviving spouse, beneficiary or next of kin. A copy of said notice shall be attached to said petition. Such notice

need not be given to any person whose waiver of said notice is attached to the petition.

4. If no objection or answer containing objections to the allowance of said claim is filed with said Court within twenty (20) days after the filing of said petition, the Court may grant the prayer of the petition and fix a time and place for a hearing on said petition and thereafter proceed to determine the matter, with or without the appointment of appraisers to determine the value of said articles.

5. A form of order of Court or decree corresponding with the prayer of the petition shall be attached to any petition presented to the Court.

6. Any person or persons who desire to object to the retention of any personal property, or to the claiming of any personal property, for or on account of the family exemption by any person or persons, shall file a petition with the Court pursuant to the provisions of Section 3122, Chapter 31 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. § 3122) and its amendments, within twenty (20) days after receipt of said notice of retention or claim, and shall serve a copy of said petition upon the personal representative or representatives of the estate of decedent; upon the attorney representing the estate of said decedent; and upon the person or persons making said retention or claim of said property, or the attorney for said person or persons.

7. A claim for personal property for or on account of the family exemption may be made in a petition filed under Chapter 31, Section 3102 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. § 3102) and its amendments.

C. Real Estate.

1. Any person who desires to claim the family exemption provided for under Chapter 31, Section 3121 of the Decedents, Estates and Fiduciaries, and its amendments, in whole or in part out of real estate, shall present a petition to the Court which shall set forth:

- (a) The name and address of the Petitioner and his relationship with the decedent;
- (b) The name, domicile and date of death of the decedent and whether decedent died testate or intestate.
- (c) Whether or not letters on the estate have been granted and the date of issuance of said letters, if granted.
- (d) The name and address of the personal representative, if any.
- (e) The name, address, relationship, and interest of all beneficiaries or heirs at law of decedent.
- (f) The name and address of the person in possession of the real property claimed by the Petitioner.
- (g) Facts establishing a prima facie right of the Petitioner to claim said family exemption.
- (h) A description of the real property claimed and its location.
- (i) The names, addresses and respective interests of all other owners of said real property, if any.
- (j) A list of all costs of administration and a statement as to the status thereof.
- (k) Whether the Petitioner requests the allowance prior to the confirmation of the account filed in said estate or to the audit thereof.

(l) An averment as to the capacity of all other known interested parties either as spouse, devisee or heir at law and the existence of a fiduciary or the necessity of an appointment of a fiduciary for any such other party.

(m) Averments of such other additional facts as Petitioner deems appropriate to aid the Court in passing upon the petition.

(n) A request to the Court to appoint two appraisers to appraise the value of the real property claimed for or on account of the family exemption and to set apart said real property to the Petitioner for or on account of said exemption.

2. Upon the presentation of any petition for the family exemption in whole or in part out of real estate, the Court shall direct the petition to be filed and shall fix the time and place for a hearing of said petition. Written notice of the filing of said petition and of the time and place of hearing thereof shall be given to the personal representative of the estate, or his attorney, and to all interested parties in accordance with Pa.O.C. Rule 3.5(b).

3. At the hearing of said petition, the Court, if it deems proper, shall appoint two appraisers to appraise the value of the real property claimed for or on account of the family exemption, who shall then proceed, with due diligence to appraise the value of said real property and thereafter file a written report, under oath, with the Court.

4. The appraisers shall notify the claimant or his attorney of the place, time and date of said appraisal not less than fifteen (15) days prior to said appraisal and the said claimant or his attorney shall then give written notice thereof in such manner and to such persons as the Court shall direct.

5. If the appraisers cannot agree upon a value of said real property or if they fail to perform their duties with due diligence, the claimant shall report such facts in writing to the Court and the Court shall then appoint two other appraisers.

6. The appraisers shall notify the claimant, or his attorney of their value of said real property, and the claimant, or his attorney shall then proceed to prepare and file a report of said appraisal for said appraisers, which report shall set forth:

- (a) the names and addresses of the appraisers;
- (b) the place, time and date of said appraisal;
- (c) the description of the property appraised;
- (d) the approximate time consumed by the appraisers to perform all their duties pertaining to said appraisal;
- (e) such additional facts as may be necessary to acquaint the Court with all information and date necessary for the Court to act upon said report.

7. The claimant or his attorney shall give not less than five (5) days' written notice of the time the appraiser's report will be filed for confirmation, which notice shall contain a statement that if no objections are filed to said report within twenty (20) days after the filing thereof, the report will be confirmed Absolutely by the Court and the said real estate set apart to the claimant. Said notice shall be given in such manner and to such persons as the Court shall direct.

8. If objections are filed to said report prior to the confirmation thereof, the Court shall fix a time and place for the hearing of said objections and then either dismiss said objections and set apart said real estate or sustain

the objections and appoint two other appraisers or take such action as the Court may deem just and appropriate.

9. If no objections are filed to said report within twenty (20) days after the filing thereof, the Court shall, on motion of the claimant or his attorney, confirm said report and set apart said real estate to the claimant.

10. Upon confirmation of the report of appraisers of real estate claimed in whole or in part for or on account of the family exemption, the Court shall determine and fix the compensation of said appraisers and direct the payment thereof out of the estate of the decedent as general administration expenses.

11. A certified copy of the decree confirming an appraisal of real property and setting it apart for or on account of the family exemption shall be recorded and registered in accordance with Chapter 31, Section 312 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. § 3123) and its amendments.

5.3. Intestate Share to Surviving Spouse.

If an appraisal of property is needed, the manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof, shall be by Special Order in each case.

5.6. Appointment of a Guardian for the Estate or Person of a Minor.

Written consent of the parents or surviving parent of the minor to the appointment of a guardian for his estate or person shall be attached to the petition unless a reason is set forth in the petition why the said consent is not attached. If none of the parents have given their written consent, the consent of the adult or adults who stand in loco parentis shall be attached. If none of the aforesaid consents are obtained, the Petitioner shall set for the reasons therefore and shall give such prior notice of the presentation of the petition as the Court shall direct.

CHAPTER 7. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

7.1. Depositions, Discovery and Production of Documents.

The Rules pertaining to Depositions, Discovery and Production of Documents as contained in the Pennsylvania Rules of Civil Procedure shall be applicable to the Orphans' Court Division of the Court of Common Pleas of Lebanon County.

7.2. Motion for Judgment on the Pleadings.

In order to obtain a decision from the Court on any contested legal issue, a party must file a Praeceptum for Disposition in accordance with Leb.Co.C.C.P. Rule 52-205.4.

7.3. Motion for Summary Judgment.

In order to obtain a decision from the Court on any contested legal issue, a party must file a Praeceptum for Disposition in accordance with Leb.Co.C.C.P. Rule 52-205.4.

CHAPTER 9. AUDITORS AND MASTERS

9.0. Appointment and Compensation of Auditors and Masters.

A. The Court may, on its own motion, or upon petition of the accountant or his attorney, or of any other interested party, appoint an Auditor or Master, who shall be, in the absence of special circumstances to be determined solely by the Court, a member of the Bar of Lebanon County, Pennsylvania. However, the Court may, in its sole

discretion, at any time after the appointment of an Auditor or Master, recall the matter for attention by the Court.

B. The Petition for the Appointment of an Auditor or Master shall contain the following information when applicable:

1. The identity and residence of the Petitioner;
 2. The relationship if any of the Petitioner to the decedent;
 3. In the event the decedent left a Will, a copy of the Will or deed of trust is to be attached as an exhibit to the petition;
 4. In the case of intestacy, the identity and address of all of the heirs of the decedent entitled to share in the estate;
 5. A statement disclosing the gross amount of the estate and the net amount available for distribution;
 6. A brief statement as to the legal or factual issues to be determined by the Auditor or Master; and
 7. The identity of all local counsel as attorney for any interested parties.
- C. No suggestion, stipulation, motion or agreement by the parties or their counsel as to the identity of the person to be appointed Auditor will be considered under any circumstances.

D. Any person appointed by the Court as an Auditor or Master under these rules shall be compensated by reasonable and customary fees as are agreed upon by the attorneys of all interested parties, or as fixed by the Court and paid from such sources as the Auditor or Master shall direct.

E. The Auditor's or Master's hearing shall be held at a time and place indicated by the Auditor or Master not later than forty-five (45) days after the Auditor's or Master's appointment, unless such time be extended by stipulation of all counsel of record or by Order of Court. The Auditor's or Master's hearing shall be held in the room or place assigned by the Court Administrator.

F. The report of the Auditor or Master shall be returnable within ninety (90) days after his appointment. The return date shall be extended only upon application to the Court and for good and sufficient cause shown.

9.1. Notice of Hearing.

Twenty (20) days prior written notice of the time and place of the Auditor's or Master's hearing shall be given by the Auditor or Master to all counsel of record and all interested parties not represented by counsel, known to the Auditor or Master; and in addition thereto, by advertising the time and place of hearing once a week for two (2) consecutive weeks, within a period of one (1) month immediately prior to the hearing, in a newspaper of general circulation in Lebanon County and in the *Lebanon County Legal Journal*. The Auditor or Master shall give evidence of such advertisement by attaching proofs of such publication to the Auditor's or Master's Report and making them a part thereof.

9.5. Transcript of Testimony.

A. The Auditor's or Master's hearing shall be held continuously from day to day for a full Court day or its equivalent, where possible, during each day in which it is held, and shall not finally be adjourned by the Auditor or Master until the testimony of all the witnesses and

parties to the case shall have been fully and completely presented and the reception of evidence closed.

B. Testimony given at an Auditor's hearing shall be stenographically recorded.

C. The transcript of testimony taken before an Auditor or Master shall be filed with his report.

D. The Auditor or Master shall, in the first instance, pass on questions of evidence. If the Auditor or Master is of the opinion that the testimony is clearly frivolous and irrelevant, or that the witness is clearly incompetent, he need not take the testimony, but the Record shall show the offer and the purpose of it, the objection and the ground of it, as well as the decision of the Auditor or Master, so that if objection be taken to the report of the Auditor or Master on this ground his decision may be properly reviewed by the Court. However, if the Auditor or Master is in doubt, the testimony shall be taken subject to exception and the question may be raised upon exception to his Report.

9.6. Notice of Filing Report.

A. *Notice of Filing Report.* The Auditor or Master shall give three (3) days' prior written notice of his intention to file the report and to apply to the Court for confirmation thereof to each attorney of record and to all parties not represented by counsel, and shall make a copy of his report available for their inspection during such notice period.

B. *Objection.* Any interested party shall have the right to file objections to the report of an Auditor or Master within twenty (20) days after the filing and confirmation thereof. If objections are filed, the issue shall be referred to the Court for placement on the argument list. In order to obtain a decision from the Court on any contested legal issue, a party must file a Praeceptum for Disposition accordance with Leb.Co.C.C.P. Rule 52-205.4.

C. *Re-Examination by Auditor or Master.* In the event that objections are filed, the Auditor or Master shall have a period of twenty (20) days prior to argument to re-examine the subject of the objections and to amend the report if, in the Auditor's or Master's opinion, the objections are in whole or in part well-founded.

D. *Argument.* Argument before the Court shall be confined to the objections filed to the Auditor's or Master's report, either as originally submitted or amended; and the Court may, in its sole discretion, remand the report of the Auditor or Master for further hearing.

9.7. Confirmation of Report.

The report of an Auditor or Master shall be confirmed as of course, unless objections have been filed thereto pursuant to these rules.

CHAPTER 10. REGISTER OF WILLS

10.4. Appeals from the Register of Wills.

A. *Filing.* Appeals taken from the judicial acts or proceedings of the Register shall be addressed to the Orphans' Court but filed with the Register.

B. *Petition sur Appeal.* After an appeal has been taken to the Orphans' Court from any judicial act, proceeding or decree of the Register, the appellant shall present a petition to the said Court within thirty (30) days after filing such appeal and shall allege that an appeal has been filed and bond approved by the Register and filed in his office within ten (10) days thereafter.

C. Upon the filing of a petition, the Court will award a Citation to all interested parties, including the Register,

to show cause why the appeal should not be sustained and the decision complained of set aside, and in cases where issues of fact exist, why the disputed issues of fact should not be submitted to a jury. The Citation, with a copy of the appeal, shall be served in the manner provided by the Orphans' Court Act of 1951. Such Citation will be made returnable to a day certain but not less than twenty (20) days after issuance.

D. Appeals from the appraisal of the property of a resident decedent for Transfer Inheritance Tax purposes shall be taken pursuant to the provisions of the Act of June 20, 1919, P.L. 921, Section 23, as amended, by filing such appeal, together with specifications of objections and together with security approved by the Orphans' Court in the offices of the Clerk of the Orphans' Court.

CHAPTER 15. ADOPTION

15.1. Hearings.

A. At the hearing on a petition for voluntary relinquishment or abandonment, the presence of the Petitioners is required, and they shall be examined under oath to ascertain the truth of the facts set forth in the petition. The presence of the minor shall not be required.

B. Hearings on a petition for adoption, voluntary relinquishment and/or abandonment shall be private and not in open Court, unless otherwise ordered by the Court.

C. At the hearing on a petition for adoption, the presence of the following is required except by special order:

1. The Petitioners.
 2. The person whose adoption is sought.
 3. All persons whose consent is necessary under the adoption laws, except the natural parent or parents who have executed a proper legal consent and specifically waive their right to be present.
 4. Such other persons as the Court may direct by special order.
- D. Those required to be present at an adoption hearing shall be examined under oath to ascertain the truth of the facts set forth in the petition and a record made of their testimony. The record shall not be transcribed unless ordered by the Court.

CHAPTER 18. MARRIAGE

18.1. Waiver of Waiting Period.

The presence of the Petitioners shall be required at the hearing on a petition to waive the three day waiting period, unless excused by the Court.

18.2. Minors Under the Age of Sixteen.

No petition for issuance of a license to marry to a person under the age of sixteen (16) years shall be presented without the written consent of the parents or surviving parent or legally appointed guardian, without leave of Court for cause shown. The minor, the intended spouse and a parent, surviving parent or guardian of all parties under the age of 16 years shall be present at the time of the presentation of the petition for examination by the Court, other than such parties as may be excused by the Court.

CHAPTER 19. PROMPT DISPOSITION OF MATTERS AND TERMINATION OF INACTIVE CASES

19.1. The Clerk of Court—Orphans' Court Division, shall list for general call at the first civil argument court

held in September of each year, all Orphans' Court matters in which no steps or proceedings have been taken for two years or more. Prior thereto, they shall give notice thereof to counsel of record and to the parties for whom no appearance has been entered as provided by Pa.R.J.A.1901(c). If no action is taken or written objection is filed in such matter prior to the commencement of the general call, the Clerk of Court—Orphans' Court Division, shall strike the matter from the list and enter an order as of course, dismissing the matter with prejudice for failure to prosecute under the provisions of this Rule. If no good cause for continuing the matter is shown at the general call, an order shall be entered forthwith by the Clerk for dismissal.

[Pa.B. Doc. No. 16-1349. Filed for public inspection August 5, 2016, 9:00 a.m.]

MONTGOMERY COUNTY

Adoption of Orphans' Court Rules Chapters 1 through 9

Administrative Order

And Now, this 27th day of July, 2016, the Court hereby adopts Montgomery County Orphans' Court Rules, Chapters one (1) through nine (9), which replace the existing Montgomery County Orphans' Court Rules, with the exception of Chapters fourteen (14), fifteen (15) and sixteen (16). A copy of these Rules follows as Exhibit A to this Order. These Rules shall become effective September 6, 2016 in accordance with Pennsylvania Rule of Judicial Administration, Rule 103(d)(5)(iii).

The Clerk of the Orphans' Court is directed to publish this Order, along with a copy of the adopted Montgomery County Local Orphans' Court Rules ("Local Rules") on the Montgomery County Orphans' Court website and incorporate the Local Rules in the complete set of local rules no later than thirty (30) days following publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.J.P., Rule 103(d)(6)(ii)—(iii). In further conformity with the Pennsylvania Rules of Judicial Administration, Rule 103(d)(6)(i), one (1) certified copy shall be filed with the Clerk of the Orphans' Court and the Clerk of the Orphans' Court shall forward one (1) certified copy of this Order and the Local Rules to the Administrative Offices of Pennsylvania Courts.

The Clerk of the Orphans' Court is further directed, pursuant to Pa.R.J.P., Rule 103(d)(7), to keep a compilation of these Local Rules continuously available for public inspection and copying in the respective filing office and on the website of the Montgomery County Orphans' Court. Upon request and payment of reasonable costs of reproduction and mailing, the Montgomery County Orphans' Court shall furnish a person with a copy of any local rule.

In addition, the Clerk of the Orphans' Court shall deliver one (1) copy to the Court Administrator of Montgomery County, one (1) copy to the Law Library of Montgomery County and one (1) copy to each Judge of the Orphans' Court Division of this Court.

By the Court

WILLIAM J. FURBER, Jr.,
President Judge
LOIS E. MURPHY,
Administrative Judge

EXHIBIT A
MONTGOMERY COUNTY LOCAL ORPHANS'
COURT RULES

CHAPTER I. PRELIMINARY RULES

Local Rule 1.1A.

These rules shall be known as the Montgomery County Orphans' Court Rules, and shall be referred to individually herein as "Local Rule" and cited as "Pa.Mont.O.C. Local Rule _____."

Local Rule 1.7A. Officers Not Eligible To Practice.

The following officers shall not practice as an attorney before this court: the clerk of this court; any law clerk of this court; the Register of Wills and the sheriff of this County; the official stenographer; and their assistants, deputies and clerks.

Local Rule 1.8A. Cover Sheet.

Every legal paper filed (unless filed electronically) shall be accompanied by a completed cover sheet, in the form available from the Clerk of the Orphans' Court of Mont-

gomery County and available on the Montgomery County Website at the following link: <http://www.montcopa.org/DocumentCenter/View/418>. The cover sheet must be typed or printed and must include the address and signature of the attorney for the filing party. If the party is not represented by any attorney, the party must sign the cover sheet and include his or her address. Where an attorney or party has not previously entered his or her appearance with respect to the matter, the cover sheet for a pleading shall be deemed to be an entry of appearance by the attorney or party who signs the cover sheet.

Local Rule 1.8(c). Checklists.

Every account, petition for adjudication of account, and petition for appointment of a plenary permanent guardian of the estate of an incapacitated person must be accompanied by a completed checklist, in the form available on the Montgomery County website at the following link: <http://www.montcopa.org/206/Orphans-Court-Adoption-Information>. The checklist must be typed or printed and must list the required documents attached.

See Proposed Checklists Below

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • DECEDENT'S ESTATE		
ESTATE OF <i>DECEASED</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O.C. NUMBER	ADDRESS	
INSTRUCTIONS: 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
	1a) ACCOUNT COVERSHEET and SUMMARY PAGE [O.C. Rule 2.1]	
	1b) ACCOUNT SIGNED by ALL ACCOUNTANTS/VERIFIED by at LEAST ONE ACCOUNTANT [O.C. Local Rule 2.4B.]	
	2a) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION filed [O.C. Rule 2.4]	
	2b) PETITION for ADJUDICATION/ STATEMENT of PROPOSED DISTRIBUTION SIGNED by EACH ACCOUNTANT [O.C. Rule 2.4 and Local Rule 2.4B]	
	2c) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION VERIFIED by at LEAST ONE ACCOUNTANT [O.C. Rule 2.4 and Local Rule 2.4B]	
	3a) IF WILL, TYPED COPY of WILL & CODICILS	
	3b) IF WILL, CERTIFIED CORRECT	
	4) ORIGINAL LETTERS TESTAMENTARY or LETTERS OF ADMINISTRATION	
	5) PROOF of ADVERTISEMENT of LETTERS [20 Pa. C.S. § 745] (unless filed by order of Court)	
	6a) TYPED COPY of INVENTORY	
	6b) CERTIFIED CORRECT	
	7a) STATEMENT of METHOD of NOTICE	
	7b) NOTICE OF CHARITABLE GIFT TO ATTORNEY GENERAL [O.C. Rule 4.4]	
	8) PETITION to APPOINT/REQUEST to WAIVE GUARDIAN/TRUSTEE AD LITEM [O.C. Rule 2.4.]	
	9) INHERITANCE TAX RECEIPTS	
	10) AGREEMENT of COMPROMISE and SETTLEMENT	
	11) AGREEMENT REGARDING ACCOUNTANT'S COMPENSATION	
	12a) CERTIFICATE of APPOINTMENT OF FOREIGN FIDUCIARY	
	12b) AFFIDAVIT by FOREIGN FIDUCIARY	
	13) CERTIFICATION REGARDING PRIOR FILED ORIGINALS	
	14) INCOME ACCOUNTING WAIVERS	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY	DATE

	ACCOUNT SHOWS GROSS ESTATE [O.C. Local Rule 1.8(c)]	
	NOTICE OF AUDIT [O.C. Rule 2.5(d)]	
	NOTICE TO APPROPRIATE REPRESENTATIVES OF PERSONS WHO ARE NOT SUI JURIS. [O.C. Rule 2.4]	
	NOTICE OF REPRESENTATION [20 P.S. §7725]	
	CERTIFICATE OF SERVICE OF NOTICE OF AUDIT[O.C. Rule 2.5(g)]	
	WAIVERS OF NOTICE OF AUDIT	
	ENTRY OF APPEARANCE OF ATTORNEY	
	CHARITABLE GIFT CLEARANCE CERTIFICATE/LETTER OF NO OBJECTION FROM ATTORNEY GENERAL	
	ELECTION TO TAKE AGAINST WILL	
	ASSIGNMENTS	
	RENUNCIATIONS	
	DISCLAIMERS	
	ATTACHMENTS	
	INSTRUMENT OR MATERIAL PARTS CONTAINING ANY PROVISION WHICH FORMS THE BASIS OF A DISPUTE, A QUESTION FOR ADJUDICATION, OR OTHER ISSUES FOR ADJUDICATION	
	LIST OF ADDITIONAL RECEIPTS AND DISBURSEMENTS SINCE CLOSING OF ACCOUNT [O.C. Local Rule 2.4(C)]	
	MEDICAL ASSISTANCE RECOVERY ACT LETTER	
	FOR INSOLVENT ESTATE: SCHEDULE WITH ORDER OF PREFERENCE UNDER 20 PA §3392 AND PROPOSED PAYMENTS	
	IF DECEDENT ADJUDICATED INCAPACITATED, COPY OF ORDER IF AVAILABLE; OTHERWISE COURT, TERM, NUMBER, DATE AND NAME OF HEARING JUDGE	
	IF DISTRIBUTION TO BE MADE TO PERSONAL REPRESENTATIVE OF A DECEASED PARTY, COPY OF WILL OR OTHER INSTRUMENT APPOINTING SAME	
	CERTIFICATE OF REGISTER OF WILLS SHOWING STATUS OF INHERITANCE TAX	

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • TRUST (TESTAMENTARY/INTER VIVOS)		
ESTATE OF <i>DECEASED/SETTLOR</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O.C. NUMBER	ADDRESS	
INSTRUCTIONS: 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
	1a) ACCOUNT COVERSHEET and SUMMARY PAGE	
	1b) ACCOUNT SIGNED by ALL ACCOUNTANTS/VERIFIED by at LEAST ONE ACCOUNTANT	
	2a) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION filed	
	2b) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION SIGNED by EACH ACCOUNTANT	
	2c) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION VERIFIED by at LEAST ONE ACCOUNTANT	
	3a) TYPED COPY of TRUST INSTRUMENT (DEED OR WILL)	
	3b) CERTIFIED CORRECT	
	4a) ORIGINAL TRUST INSTRUMENT/ORIGINAL LETTERS TESTAMENTARY	
	4b) CERTIFIED CORRECT	
	5a) STATEMENT of METHOD of NOTICE	
	5b) NOTICE OF CHARITABLE GIFT TO ATTORNEY GENERAL	
	6 PETITION to APPOINT/REQUEST to WAIVE GUARDIAN/TRUSTEE AD LITEM	
	7 INHERITANCE TAX RECEIPTS	
	8) AGREEMENT of COMPROMISE and SETTLEMENT	
	9) AGREEMENT REGARDING ACCOUNTANT'S COMPENSATION	
	10a) CERTIFICATE of APPOINTMENT OF FOREIGN FIDUCIARY	
	10b) AFFIDAVIT by FOREIGN FIDUCIARY	
	11) CERTIFICATION REGARDING PRIOR FILED ORIGINALS	
	12) INCOME ACCOUNTING WAIVERS	
	13)	
	14)	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY	DATE

2.3.8.3. If rejected, the email from the Clerk, and OCEFS acknowledgment, will indicate the reason(s) for the rejection. **You do not need to recreate the filing process to re-submit the rejected pleading.**

	ACCOUNT SHOWS GROSS ESTATE	
	NOTICE OF AUDIT	
	NOTICE TO APPROPRIATE REPRESENTATIVES OF PERSONS WHO ARE NOT SUI JURIS.	
	CERTIFICATE OF SERVICE OF NOTICE OF AUDIT	
	WAIVERS OF NOTICE OF AUDIT	
	NOTICE OF REPRESENTATION [20 P.S. §7725]	
	ENTRY OF APPEARANCE OF ATTORNEY	
	CHARITABLE GIFT CLEARANCE CERTIFICATE/LETTER OF NO OBJECTION	
	ELECTION TO TAKE AGAINST WILL	
	ASSIGNMENTS	
	RENUNCIATIONS	
	DISCLAIMERS	
	ATTACHMENTS	
	INSTRUMENT OR MATERIAL PARTS CONTAINING ANY PROVISION WHICH FORMS THE BASIS OF A DISPUTE, A QUESTION FOR ADJUDICATION, OR OTHER ISSUES FOR ADJUDICATION	
	RESIGNATIONS OF TRUSTEES	
	APPOINTMENT OF SUCCESSOR TRUSTEES	
	ACCEPTANCE OF APPOINTMENT OF SUCCESSOR TRUSTEES	
	LIST OF ADDITIONAL RECEIPTS AND DISBURSEMENTS SINCE CLOSING OF ACCOUNT	
	CERTIFICATE OF REGISTER OF WILLS SHOWING STATUS OF INHERITANCE TAX	

All accounts must conform to the Pennsylvania Orphans' Court Rules and the Local Rules of the Orphans Court Division of the Court of Common Pleas of Montgomery County.

MONTGOMERY COUNTY ORPHANS' COURT CHECKLIST - SCHEDULE OF DISTRIBUTION

Decedent's/Settlor's/Principal's/Incapacitated Person's/Minor's Name:	
Case Number:	Audit Date:
Attorney:	Attorney Address:
Attorney ID Number:	Attorney Phone Number:

DOCUMENTS MUST BE ASSEMBLED ACCORDING TO THE ORDER ON THIS CHECKLIST

Preparer (mark 'X' if provided)	DOCUMENT	AUDITOR
	1. Schedule Signed by ALL Fiduciaries	
	2. Schedule Certified by Attorney to be True and Correct and in Conformity with Adjudication	
	3. Approvals of ALL Beneficiaries	
	<i>OR</i>	
	1. Copy of Notice of Filing Schedule of Distribution	
	2. Proof of Service of Sending Notice of Filing of Schedule of Distribution	

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Local Rule 2.4A. Audit List—When Called.

The audit list will be called on the first Monday of every month except September and in September on the Tuesday after Labor Day. Each audit list shall include accounts continued from previous audit lists, and new accounts eligible for audit.

Local Rule 2.4B. Signatures.

All accountants or personal representatives shall sign the account and petition for adjudication/statement of proposed distribution in accordance with Rule 3.12. At least one accountant or personal representative shall verify the account and petition for adjudication/schedule of distribution in accordance with Rule 3.13.

Local Rule 2.4C. Additional Receipts and Disbursements.

Receipts and disbursements after the date to which the account was stated and to be included in the adjudication, shall be set forth in the petition for adjudication or in a separate statement attached thereto.

Local Rule 2.5A. Notice following continuance.

When an account is scheduled to be called or is called for audit on a particular date and the matter is requested to be continued to a subsequent audit date, the accountant is required to notify all interested parties of the new date in accordance with Rule 2.5.

Local Rule 2.6A. Index of Proceedings.

The clerk 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 the clerk's office.

Local Rule 2.6B. Holidays.

Whenever a session of court, a return day, or any time fixed for performing any judicial or clerical duty, falls on a holiday, Saturday, or a Sunday, the next 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.

Local Rule 2.6C. For a Particular Audit.

Accounts to appear on a particular audit list must be filed not later than the fifth Wednesday preceding the date 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.

Local Rule 2.7A. Hearings on Objections to Accounts, Claims or Questions of Law.

(a) When objections to an account have been filed, a hearing on the objections will be held on a day fixed by the court.

(b) *Claimant's Statement.* The attorney for claimant shall file with the clerk, prior to the hearing, a written statement of all material facts relied upon and shall serve a copy thereof on the attorney for accountant or other contesting parties at least twenty days prior to the hearing in the manner provided in Rule 4.2.

Local Rule 2.9A. Schedules of Distribution.

(a) *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 in duplicate. When a schedule is approved in writing by interested parties the attorney for accountant shall also certify whether or not such parties constitute all 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 securities awarded in kind, and the schedule will be attached to and become part of the adjudication.

(c) *Objections.* Objections to unconfirmed schedules of distribution shall be filed with the clerk, and may be filed not later than the twentieth (20th) day after the schedule was filed. Such objections may raise questions relating only to the schedule itself, and shall in no event raise questions which actually were or else could have been raised previously, by claims, or by objections to the account.

Local Rule 2.9B. Schedules of Distribution (Notice of Filing).

(a) *When Notice Given.* Notice of filing the schedule of distribution shall be given to all interested parties affected thereby who do not attach to it or submit with it their written approval, but only when the schedule contains:

1) items of additional receipts or disbursements not included in the adjudication; or

2) 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.

(b) *Time of Notice.* Such notice shall be given no later than the day of the filing of the schedule, by letter addressed to the last known address of the party in interest or his attorney.

(c) *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 shall attach a copy of the notice and a list of those to whom such notice was sent.

Local Rule 2.9C. Distribution of Real Estate.

(a) *When No Partition or Allotment Required or When Distributees Agree to Schedule.* No 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 may recite how title was acquired. 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.

(b) *Partition or Allotment of Real Estate Requested by Accountant or 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 auditing judge 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, 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 interested parties.

(c) *Form of Clerk's Certificate.* The following form shall be prepared by the attorney for the accountant, and submitted to the clerk for execution on final confirmation of an adjudication awarding real estate:

CERTIFICATE OF AWARD OF REAL ESTATE

ESTATE OF _____

Late of the Borough of Norristown, Deceased

No. ____

Award of Real Estate to:

(1) _____ of _____

(2) _____ of _____ .

Commonwealth of Pennsylvania

ss:

County of Montgomery

I, _____, Assistant Clerk of the Orphans' Court Division of the Court of Common Pleas for the County of Montgomery, in the Commonwealth of Pennsylvania, do hereby certify the attached to be a true and correct excerpt from the schedule of distribution filed in conformity with adjudication of the Orphans' Court Division of the Court of Common Pleas of Montgomery County upon the first and final account of _____ and _____, Executors of the Will of _____, late of the Borough of Norristown, deceased, filed and confirmed nisi _____, _____, 20____, and confirmed absolutely _____, _____, 20____, as the same remains on file and is of record in said court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at Norristown this _____, day of _____, 20____.

Assistant Clerk of the
Orphans' Court Division

(SEAL)

CHAPTER III. PETITION PRACTICE AND PLEADING

Local Rule 3.4A. Trust Inter Vivos.

The original, or a copy certified by counsel to be true and correct, of the trust instrument and any amendments thereto, shall be filed or e-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.

Local Rule 3.4B. Sureties.

(a) *Individual Sureties.* Individuals proposed as sureties on bonds of fiduciaries shall take 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, and shall be renewed annually thereafter as long as the bond shall remain in effect. A member of the Bar or any employee of

this court shall not act as surety in any proceeding in this court, except by special 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, and that no bond shall be executed by any surety company after May 1 of any year until such certificate issued after March 31 of the same year shall have been filed with the clerk.

Local Rule 3.5A. Petition Requesting a Rule Setting a Date and Time for Response.

(a) Where a citation is not required, in lieu of proceeding by notice practice under Rule 3.5(b), the Court, upon its own motion or the request of the petitioner, may enter a preliminary decree, in the form provided in subparagraph (d), providing for the issuance of a rule to show cause and the scheduling of a date and time for appearance and response to the petition.

(b) If a petitioner requests that a preliminary decree be entered issuing a rule to show cause and setting a date and time for appearance and response to the petition, the petitioner shall attach a proposed preliminary decree to the petition in the form provided at subparagraph (d); the petitioner shall not include any proposed injunctive relief in a proposed preliminary decree.

(c) If a preliminary decree establishing a rule to show cause and setting a date and time for appearance and response to a petition is entered the following procedure shall apply:

1) The petitioner must file a certificate of service, listing the names and addresses of those individuals and entities to whom petitioner has sent a copy of the preliminary decree and the petition by first-class United States mail sent at least twenty (20) days before the response date set in the preliminary decree;

2) If an answer is not filed on or before the date scheduled in the preliminary decree, all averments of facts in the petition may be deemed admitted and the court shall enter an appropriate order;

3) If an answer is filed raising no disputed issues of material fact, the court, may decide the petition on the basis of the petition and answer;

4) If an answer is filed raising disputed issues of material fact, the court shall authorize such discovery as the court deems appropriate under the circumstances and shall set a schedule for a hearing and any briefing that the court shall require and for disposition of the petition.

(d) The preliminary decree described in paragraphs (a) and (b) shall be substantially in the following form:

[CAPTION]

PRELIMINARY DECREE

AND NOW, this _____ day of _____, 20____, upon consideration of the attached petition, it is hereby ordered that:

A Rule is hereby issued upon the respondent(s) _____ [insert name or names of respondents] to appear and show cause why the petitioner is not entitled to the following relief requested in the petition:

[Insert paragraph or paragraphs restating relief requested in wherefore clause of Petition]

(2) The respondent shall file an answer to the petition on or before the ___ day of _____, 20___, and shall appear on that date at 9:30 am. in Courtroom ___, One Montgomery Plaza, Norristown, PA.

(3) The petition may be disposed of by the Court on that date, or the Court may set a schedule for such further proceedings as may be necessary.

By the Court

Local Rule 3.9A. Disposition of Preliminary Objections.

(a) At any time after twenty (20) days have passed following the filing of preliminary objections, if no amended petition has been filed, the court may set a schedule for briefing and argument, if necessary, or may rule on the preliminary objections and any answer thereto without argument or briefing.

(b) Briefs or memoranda of law shall be required only by special order of the court in every case.

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

Local Rule 4.7A. Electronic Filing of Legal Papers.

(a) *Authorization for Electronic Filing.* Effective January 6, 2014, the Clerk of the Orphans' Court of Montgomery County shall accept all legal papers and exhibits either by paper filing or by electronic filing through the Clerk of the Orphans' Court of Montgomery County Electronic Filing System ("Electronic Filing System").

(b) *Electronic Filing of Legal Paper.*

1) *Format of legal papers.* Legal papers and exhibits to be filed by electronic filing shall be filed in portable document format (.pdf or "PDF"). Any legal paper submitted to the Clerk of the Orphans' Court as a paper filing shall be converted to PDF and the Clerk of the Orphans' Court shall maintain the legal paper in PDF format.

2) *Original legal papers.* The Clerk of the Orphans' Court may return the original legal paper to the filing party, for retention by the filing party as required by Pennsylvania Supreme Court Orphans' Court Rule 4.7(c)(3), provided that the Clerk of the Orphans' Court shall maintain a complete and accurate paper copy of every legal paper filed in the Clerk of the Orphans' Court file.

3) *Exhibits.* Each exhibit to a legal paper shall be filed as a separate PDF document but as part of the same docket entry filed electronically, each exhibit shall be uploaded by the filing party as a separate PDF document, associated with the same filing as the legal paper. If a paper filing, each exhibit shall be entered on the docket by the Clerk of the Orphans' Court as a separate PDF document as part of the same docket entry as the legal paper.

4) *Subsequent filing.* A party filing a legal paper that is responsive to or related to an earlier filed legal paper in the same matter shall specify the 'Suffix number' (which can be found in the third column on the electronic docket), date and title of the prior legal paper at the time of filing the subsequent legal paper; the suffix number shall be provided either on the Orphans' Court Cover Sheet or in the Electronic Filing System.

(c) *Signature, Verification and Retention of Legal Paper.*

1) The original signature page or pages of any document filed electronically shall be retained by the filing party as required by Supreme Court Orphans' Court Rule 4.7(c) and shall be produced upon request the court.

2) The electronic filing of any legal paper that is required to be verified or signed (including, but not limited to a consent, waiver, joinder, settlement agreement or stipulation), acts as certification by the filing party that a paper copy of the filing was properly signed by attorneys and parties, in all places necessary, and where applicable, that the legal paper has been verified, and that the filing party has retained the signed original.

(d) *Website, Access to Website and Filing Date.*

1) *Website.* All legal papers to be filed electronically shall be filed through the Clerk of the Orphans' Court Electronic Filing System which shall be accessible through the website of Montgomery County Courts, <https://www.courtsapp.montcopa.org/ROWEfiling> or at such other website as may be designated from time to time.

2) *Access to Website.* To obtain access to the Electronic Filing System, counsel and any unrepresented party must register with a User Name and Password and must provide a valid e-mail address to which official notices will be sent, and must expressly consent to the receipt of official notices, orders and decrees from the Clerk of the Orphans' Court at the e-mail address or addresses provided.

3) *Access available at all times.* As required by the Supreme Court Orphans' Court Rule 4.7(d)(2), the Clerk of the Orphans' Court shall provide electronic filing access at all times.

4) *Acknowledgement of Receipt of E-filing.* Upon receipt of a legal paper through the Electronic Filing System, the Clerk of the Orphans' Court shall provide the filing party with an electronic acknowledgement that includes the date and time that the legal paper was received by the Electronic Filing System. This receipt does not constitute acceptance (see paragraph 5, below).

5) *Notification of Acceptance or Rejection of Filing.* Upon review, the Clerk of the Orphans' Court will promptly notify the filing party either that the legal paper was accepted for filing or that the legal paper was rejected and the reason for rejection.

(e) *Intentionally omitted.*

(f) *Fees.* The Clerk of the Orphans' Court will accept for payment of all filing fees the following credit and debit cards: American Express, Discover, MasterCard and Visa.

(g) *Required redaction.* Unless required by an applicable law, rule or order of court, any party or non-party filing a legal paper, as defined in Supreme Court Orphans' Court Rule 1.3, with the Clerk of the Orphans' Court must redact identifying information appearing in the legal paper filed, including in any attachments or exhibits thereto, as follows:

1) An individual's social security number or taxpayer identification number (other than the social security number of a deceased individual);

2) An individual's date of birth, provided that the filing may include the year of an individual's birth; provided that any filing related to a guardianship of a minor's person or estate or approval of a minor's compromise may include the date of birth of the minor;

3) With respect to any financial account number, including but not limited to any bank account, investment account, or credit card account, the account number must be redacted, as well as any PIN, password or other number used to secure such account, provided that the filing may include the last four digits of the account number;

4) The court may, for good cause shown in a specific case, order that additional information must be redacted from any filing, including but not limited to the home street address or driver's license number of a specified individual or the names of minor children;

5) The court may order the person making a redacted filing to file, in addition, an unredacted copy under seal; and

6) Where the court has permitted a filing to be made under seal, the court may later unseal the filing and may order the filing party to redact the filing at that time.

7) The responsibility for redacting the identifying information rests with the party or non-party making the filing and his or her counsel and the party or non-party will be responsible for certifying to the Clerk of the Orphans' Court that this Rule has been complied with. Documents will not be reviewed by the Clerk of the Orphans' Court for compliance with this Rule.

8) This rule shall not prevent a filer from providing information to the Clerk of the Orphans' Court required by the Electronic Filing System, including, for example, the social security number of a decedent or personal representative, provided that the information shall be redacted from all attached PDF documents.

9) Any information required to be redacted under this rule, or by court order, shall not be entered in the "Docket Text" field by the filing party during electronic filing.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Local Rule 5.2A. Notice.

(a) *When No Petition.* When the procedure is without petition no notice other than that to the personal representative need be given of the claim for exemption.

(b) *When Petition Filed.* When the procedure is by petition, notice of the filing thereof, and of the date fixed by the court for confirmation and allowance which shall not be less than twenty days after providing notice of the filing of the petition, shall be given by actual notice to the personal representative, if any, and to all persons other than creditors adversely affected by allowance of the exemption who do not join in the prayer of the petition, and by petition,

(c) *After Appraisalment.* When it is necessary for the court to appoint appraisers, the notice shall be given after the appraisalment has been made and filed.

Local Rule 5.2B. Objections.

(a) *Voluntary Distribution.* Questions regarding disbursements claimed in the personal representative's account for assets delivered or permitted to be retained for or on account of the exemption may be raised only by objections to the account, which shall be filed with the clerk in compliance with Rule 2.7.

(b) *When Petition Filed.* When the procedure is by petition, questions as to the appraisalment or allowance, or both, may be raised only by objections filed with the clerk on or before the time fixed for confirmation and allowance.

(c) *Higher Bid.* Objections which relate only to the amount of the appraisalment will be dismissed unless a definite and bona fide higher bid for the property is made, or facts warranting consideration by the court appear.

Local Rule 5.2C. Final Decree.

When the procedure is by petition, if no objections are filed on or before the time fixed in the preliminary decree, confirmation of the appraisalment and allowance of the exemption may be obtained by submitting to the court the return to notices and a form of final decree.

Local Rule 5.4A. Extension of Time.

A petition for the extension of time in which the surviving spouse may file an election to take against the will shall include the requirements of subparagraphs (1) through (5) for a petition under Rule 5.4 and a request for a citation upon the interested parties who have not joined in the petition or who have not consented thereto to show cause why an extension of time to file an election should not be granted.

Local Rule 5.6A. Appearance at Presentation of Petition.

A minor shall appear at the hearing on all petitions for the appointment of a guardian of their person. A minor who is fourteen years old or older at the time of the hearing shall appear at the hearing on all petitions for the appointment of a guardian of his/her estate; unless the minor has consented to the proposed guardian and the consent is attached to the petition.

Local Rule 5.6B. Minor's Estate. Restricted Accounts. Waiver of Bond.

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 account or to purchase shares of a building and loan association or Federal savings and loan association which has an office located in Montgomery County, in accordance with the provisions of Probate, Estates and Fiduciaries Code § 5103, 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, and that the evidence of the deposit or investment, marked to indicate the restriction, shall be promptly exhibited to the clerk. If the minor is sixteen (16) years of age or over, or if the funds of the minor are \$10,000 or less, the requirement of a bond will be waived unless specially required by the Court. The Court may also waive the requirement of a bond in such other cases as the Court, for cause shown, finds that no bond is necessary.

Local Rule 5.6C. Minor's Estate. Guardian. Certificate of Appointment. Security.

If bond is required of a guardian, the clerk shall not issue the certificate of his or her appointment until the bond and surety have been approved by the court.

Local Rule 5.6D. Minor's Estate. Allowances.

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 name, age and residence of the minor;

(c) the name of the person with whom the minor resides, the name and age(s) of that person's spouse and children and/or dependents, if any;

- (d) whether or not the minor's parents are living;
- (e) the value of the minor's estate, real and personal, and the net annual income;
- (f) the circumstances of the minor, whether employed or attending school; if the minor's parents, or any other person charged with the duty of supporting him or her, is living, the financial condition and income of such person and why he or she 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;
- (g) the date and amount of any previous allowance by the court; and
- (h) the financial requirements of the minor and his or her family unit, in detail, and the circumstances making such allowance necessary.

Local Rule 5.8A. Discharge of Fiduciary—Exhibits.

Written consent of the surety, if any, shall be attached to the petition, and orders to satisfy awards from all other parties shall be submitted therewith.

Local Rule 5.8B. Discharge of Personal Representative, Estates Not Exceeding \$50,000.

A petition with account annexed for the discharge of a personal representative under Rule 5.8 shall also conform as far as practicable to the requirements of a petition under Rule 5.16 for the settlement of a small estate under the provisions of Section 3102 of Probate, Estates and Fiduciaries Code.

Local Rule 5.10A. Public Sale. Contents of Petition Additional Requirements.

- (a) When it is required that a personal representative, trustee or guardian petition the court to sell real property at public sale, the petition (in addition to requirements of Rule 5.10) shall also set forth in separate paragraphs:
- 1) With respect to a decedent's estate, 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) With respect to a minor's estate, the age of the minor;
 - 3) With respect to a minor's estate or an incapacitated person's estate, the nature and extent of the interest of the ward, and of other persons in the real property;
 - 4) With respect to property of an incapacitated person, the guardian shall include an averment whether the guardian knows or has reason to know of any objection of the ward to the sale of the real property, and shall describe the nature and circumstances of any such objection, whether stated before or after the adjudication of incapacity;
 - 5) how title to the real property was acquired, stating the date and place of probate of the will or recording of the deed;
 - 6) a recital of the relevant provisions of the will, trust or deed pertaining to the real property to be sold, and of the history of the trust;
 - 7) that the fiduciary is not otherwise authorized to sell the real estate by the Act; or is not authorized or is denied the power to do so by the will or trust, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

8) 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;

9) if the fiduciary entered bond, the name of the surety and the amount of such bond;

10) the names and relationships of all interested parties, including the next of kin of any minor or incapacitated person, 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; and the notice given to each such party in interest of the filing of the petition;

11) the improvements on the property, by whom it is occupied, its rental value and current tax assessment; and

12) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

Local 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:

- (a) a copy of the will, deed, or decree by which the fiduciary was appointed; and
- (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) consent by any mortgagee whose lien would otherwise not be discharged by the sale.

Local Rule 5.10C. Public Sale of Real Property. Notice. Return.

(a) *Notice.* After the allowance of a petition for public sale, public notice of the proposed sale shall be given by advertisement once a week for three successive weeks in the *Montgomery County Law Reporter* and in one other newspaper of general circulation in Montgomery County and by posting a notice on the premises, and as far as possible, at least twenty (20) days prior notice of the time and place of the proposed sale shall be given to all interested parties, by personal service or registered mail.

(b) *Return.* Returns of public sale of real property for the purpose of approval or confirmation by the court shall be in the form of an affidavit, which shall set forth

- 1) the information required by Local Rule 5.10A and the advertisement made;
- 2) the price obtained; and
- 3) the name and address of the purchaser and that he was highest bidder.

Local Rule 5.10D. Public Sale. 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 or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

Local Rule 5.10E. Petition to Fix or Waive Additional Security. Personal Representative. Trustee.

(a) *Form of Petition.* In a sale, whether public or private, of real estate by a personal representative or trustee without benefit of an order of court directing or authorizing such sale, where the fiduciary was required

to give bond as such personal representative or trustee, he or she shall present a petition to the court before the proceeds of the sale are paid to him or her by the purchaser, setting forth:

- 1) the date of death of the decedent;
- 2) the date of the petitioner's appointment;
- 3) the amount of the bond or bonds filed by him or her, and the date of such filing and the name or names of his surety;
- 4) 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;
- 5) a short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid; and
- 6) a prayer for an order fixing the amount of additional security or for an order excusing him from filing additional security, as the case may be.

(b) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

Local Rule 5.11A. Private Sale, Exchange or Option Exhibits.

(a) *Personal Representative, Trustee, Guardian.* The following exhibits shall be attached to the petition by a personal representative trustee, or guardian, to sell real property at private sale or to exchange real property or give an option therefor:

- 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) a copy of the agreement of sale or exchange or option agreement;
- 4) affidavits as to value as to the property to be optioned or exchanged or sold and, in the case of an exchange, of the property to be received, made by two real estate appraisers; and
- 5) with respect to a sale of real property of an incapacitated person, the guardian of estate of the incapacitated person shall include in the petition for approval of the sale an averment concerning whether the guardian knows or has reason to know of any objection of the incapacitated person to the sale of the real property, and shall describe the nature and circumstances of any such objection, whether stated before or after the adjudication of incapacity.

Local Rule 5.11B. Procedure.

(a) *Private Sale.* Whenever on the day fixed for approval of a private sale a person other than the proposed purchaser named in the petition, or more than one such other person, shall appear for the purpose of offering a higher price than that to be paid by the proposed purchaser named in the petition, the following procedure shall be followed unless otherwise directed by the court;

- 1) No offer from any proposed purchaser other than the one named in the petition will be considered unless it is at least ten (10) percent higher and is payable in cash.
- 2) If one or more interested purchasers other than the proposed purchaser named in the petition do appear and state their willingness to offer at least ten (10) percent

more, the Court will conduct an informal auction. The proposed purchaser named in the petition and all other interested purchasers shall have the opportunity to make offers at least ten (10) percent higher than the offer of the original proposed purchaser, until the highest price offered by any interested purchaser shall be determined.

3) The Court will then entertain the highest offer made by an interested purchaser and will enter an appropriate decree.

(b) *Option for Private Sale.* Part (a) of this rule shall apply to the approval of grant of an option for private sale, and in addition to the provisions of clause (1) thereof, the other proposed purchaser must also offer a consideration for the option itself which is at least one hundred (100) percent higher and is payable in cash.

(c) *Private Exchange.* The procedure in the event another person appears, on the day fixed for approval of an exchange, for the purpose of offering a different consideration, shall be as the court directs by special order.

Local Rule 5.11C. Private Sale, Exchange or Option.

The court, in the decree approving or confirming the sale, exchange, or grant of option, 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.

Local Rule 5.11D. Petition to Fix or Waive Additional Security. Personal Representative, Trustee.

(a) *Form of Petition.* In a sale, whether public or private, of real estate by a personal representative or trustee without benefit of an order of court directing or authorizing such sale, where the fiduciary was required to give bond as such personal representative or trustee, he or she shall present a petition to the court before the proceeds of the sale are paid to the fiduciary by the purchaser, setting forth:

- 1) the date of death of the decedent;
- 2) the date of the petitioner's appointment;
- 3) the amount of the bond or bonds filed and the date of such filing and the name or names of the surety;
- 4) 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;
- 5) a short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid; and
- 6) a prayer for an order fixing the amount of additional security or for an order excusing the fiduciary from filing additional security, as the case may be.

(b) *Surety on Additional Bond.* The surety on any additional bond except for cause shown shall be the same as on the original bond.

Local Rule 5.12A. Mortgage of Real Property—Additional Requirements or Lease.

(a) *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.

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

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.

(c) *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.

Local Rule 5.16. Settlement of Small Estates.

(a) *Form of Petitions.* Contents. A petition 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 or her relationship to the decedent.

2) The name, date of death and domicile of decedent, whether he or 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 § 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 therefor 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 twenty days' notice of filing of 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) *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.

(c) *Appraisements.* No appraisal shall be required unless ordered by the Court.

Local Rule 5.17A. Petition to Convert to Unitrust.

(a) *Contents of Petition*

1) The name, address and interest of petitioner in the trust.

2) How and when the trust was created, attaching a copy of the trust document and any amendments thereto to the petition as an exhibit.

3) The facts establishing Montgomery County as a proper venue for the trust.

4) Statement of how the trustee received the funds (e.g. by gift, by award from a prior adjudication, etc.).

5) A description of the dispositive provisions of the trust.

6) The terms of the trust.

7) Names of all beneficiaries.

i. Beneficiaries who are currently eligible to receive income from the trust.

ii. Names of any successor beneficiaries or representatives of beneficiaries.

iii. The names of all beneficiaries entitled to distribution of principal in the absence of exercise of any powers of appointment.

iv. Petition shall identify any beneficiary who has been declared incapacitated, is believed not to be sui juris or is a minor, including the age of the minor, and including the names of any fiduciary representing a beneficiary

(b) *Asset information related to the assets of the trust.*

1) The current market value of the trust principal.

2) The current annual fiduciary income accounting of the trust without regard to the power to adjust under Probate, Estates and Fiduciaries Code § 8104.

3) The current percentage yield of the trust based on trust principal and trust income.

4) The current percentage of the trust invested in fixed income investments and the current percentage of the trust invested in equities.

5) The current percentage of trust assets not invested but producing income or unfixed in equities.

(c) Facts supporting why the conversion will enable the trustee to better carry out the intent of the settlor or testator and the purpose of the trust.

(d) Copies of all notices sent to beneficiaries shall be attached as an exhibit to the petition.

(e) Statement as to why there is a need for court approval of the requested conversion.

(f) Specific language relating to the relief being requested shall be included in both the petition and the order to be attached to the petition.

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

Local Rule 7.1A. Practice as to Depositions, Discovery, Production of and Perpetuation of Testimony.

(a) The parties may agree to the scope and deadlines for discovery, and may agree to any or all of the following: responses to written interrogatories, document production, requests for admissions and depositions, including

depositions to preserve testimony for trial, and may agree to the specific dates, times and places for depositions.

(b) The parties may, upon agreement, request the entry of a court order setting a deadline for the completion of discovery, or the court may set a deadline for completion of discovery on its own motion.

(c) In the absence of an agreement, leave to take any form of discovery or to preserve testimony shall be granted only by court order following a petition setting forth the nature of the proposed discovery, the scope of the proposed discovery, and the need for the proposed discovery, and shall describe the good faith efforts made to reach an agreement regarding discovery. A petition seeking leave to take discovery shall include the notice required under rule 3.5(b) and an answer to the petition shall be filed within twenty (20) days of service of the petition. The court may set a schedule for briefing or argument, if necessary, following the filing of an answer to the petition, or may rule on the petition and answer without argument or briefing.

(d) Discovery material shall not be filed with the court unless relevant to a motion or petition or other pre-trial proceeding, ordered by the court or required by statute.

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

(a) A memorandum of law in support of a motion for judgment on the pleadings shall be filed simultaneously with the motion;

(b) An answer to a motion for judgment on the pleadings shall be filed within twenty (20) days of service of the motion and a memorandum of law in opposition to the motion shall be filed simultaneously with the answer;

(c) The court may schedule oral argument on a motion for judgment on the pleadings or may dispose of the motion without argument.

Local Rule 7.3A. Motion for Summary Judgment.

(a) A memorandum of law in support of a motion for summary judgment shall be filed simultaneously with the motion;

(b) An answer to a motion for summary judgment shall be filed within thirty (30) days of service of the motion and a memorandum of law in opposition to the motion shall be filed simultaneously with the answer;

(c) The court may schedule oral argument on a motion for summary judgment or may dispose of the motion without argument.

Local Rule 7.5A. Conference.

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 the issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;
- (d) The limitation of the number of expert witnesses; and
- (e) Such other matters as may aid in the disposition of the action.

Local Rule 8.2A. Motion For Reconsideration.

(a) Any motion for reconsideration filed pursuant to Pennsylvania Supreme Court Orphans' Court Rule 8.2

must be filed within twenty (20) days after the date of the filing of any order, decree or adjudication as to which reconsideration is sought.

(b) The motion for reconsideration must state how the grounds for reconsideration were previously asserted in the proceedings. Grounds not specified are deemed waived unless leave is granted upon cause shown to specify additional grounds.

(c) If a party has filed a timely motion for reconsideration, any other party may file a motion for reconsideration within twenty (20) days after the date on which the first motion for reconsideration was filed.

(d) Any party filing a motion for reconsideration shall serve a copy promptly upon every other party to the action, or upon counsel for any party represented by counsel. Prompt service may be accomplished by electronic delivery to any party or counsel who has agreed, with respect to the specific case pending, to receive electronic delivery of documents and to any party or counsel who has registered as an e-filer in the e-filing system of the Clerk of the Orphans' Court, or by U.S. first-class mail to any other party or counsel.

Local Rule 9.1A. Auditor or Master Notice of Scheduled Hearings.

(a) An auditor or master appointed pursuant to 20 Pa.C.S. § 751 shall give written notice of scheduled hearings:

- 1) by service upon the attorney appearing of record for a party;
- 2) if there is no such attorney, by U.S. first-class mail, if the party's residence is known; or
- 3) if a party's residence is not known, by publication once a week during two successive calendar weeks in the *Montgomery County Law Reporter*; or by such method of alternative service as is authorized by the court.

Local Rule 9.6A. Notice of Auditor or Master Report.

(a) An auditor or master appointed pursuant to 20 Pa.C.S. § 751 shall give written notice of the filing of a report:

- 1) by service upon the attorney appearing of record for a party; or
- 2) if there is no such attorney, by U.S. first-class mail, if the party's residence is known.
- 3) if a party's residence is not known, by publication once a week during two successive calendar weeks in the *Montgomery County Law Reporter*; or by such method of alternative service as is authorized by the court.

(b) Any party in interest shall have the right to file objections to an auditor's or master's report within twenty (20) days of the filing thereof.

(c) If objections are filed, the court shall schedule a date for a hearing or argument.

Local Rule 9.7A. Confirmation of Auditor or Master Report.

If no objections, as allowed under Local Rule 9.6A, are filed within twenty (20) days of the filing of an auditor's or master's report, the court may enter a decree confirming the auditor's report or adopting the master's report.

[Pa.B. Doc. No. 16-1350. Filed for public inspection August 5, 2016, 9:00 a.m.]

MONTGOMERY COUNTY**Mortgage Foreclosure Conciliation Program—
Masters; Administrative Order 2016-00004****Memorandum and Order**

The Montgomery County Mortgage Foreclosure Conciliation Program (the “Program”) was initiated to promote discussion and facilitate resolution between lenders and owners of certain residential properties subject to foreclosure proceedings. Since the inception of the Program, it has been administered and presided over by Judges of the Court. The Court has determined that it is necessary and appropriate to delegate certain aspects of the Program to the authority of court appointed Masters. This will permit the Court to continue to address the large number of cases and to better serve the interests of the parties involved.

The Masters will be granted the authority to preside over all Program proceedings, as well as to act as

facilitators in the exchange of documentation, the modification of terms, or, some other resolution of the litigation. The Masters may authorize the continuance of matters to allow for additional time for appropriate reasons. When appropriate, the Masters may prepare recommendations on the form of proposed Orders for review by the Judge or Judges assigned to preside over the Program.

And Now, this 21st day of July, 2016, following a review of qualifications, it is *Ordered* that the following individuals are appointed as Masters to act in accordance with the provisions set forth previously and to serve until resignation or further Order of this Court: Rochelle N. Bobman, Esquire, Pamela M. Tobin, Esquire and Bernadette A. Kearney, Esquire.

By the Court

WILLIAM J. FURBER, Jr.,
President Judge

[Pa.B. Doc. No. 16-1351. Filed for public inspection August 5, 2016, 9:00 a.m.]