

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CHS. 1, 5, 9, 11, 21 AND 25]

Order Amending Rules 123, 127, 552, 910, 911, 1116, 2152, 2156, 2171 and 2544 of the Rules of Appellate Procedure; No. 276 Appellate Procedural Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 123, 127, 552, 910, 911, 1116, 2152, 2156, 2171, and 2544 of the Pennsylvania Rules of Appellate Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

DOCUMENTS GENERALLY

Rule 123. Application for Relief.

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(f) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].—An application or answer filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

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Rule 127. Confidential Information and Confidential Documents. Certification.

(a) Unless public access is otherwise constrained by applicable authority, any attorney or any unrepresented party who files a document pursuant to these rules shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (“Public Access Policy”). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form.

(b) Unless an appellate court orders otherwise, case records or documents that are sealed by a court, government unit, or other tribunal shall remain sealed on appeal.

Official Note: Paragraph (a)—“Applicable authority” includes but is not limited to statute, procedural rule, or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (“Public Access Policy”) can be found at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Public Access Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] that require filing confidential information and documents differently than non-confidential information and documents.

Appropriate forms can be found at <http://www.pacourts.us/public-records>. Pursuant to Section 7.0(C) of the Policy, a court may adopt a rule or order that permits, in lieu of a Confidential Information Form, the filing of a document in two versions, that is, a “Redacted Version” and an “Unredacted Version.” For certification of the Reproduced Record and Supplemental Reproduced Record in compliance with the Public Access Policy, see Pa.R.A.P. 2152, 2156, 2171, and accompanying notes.

Paragraph (b)—Once a document is sealed, it shall remain sealed on appeal unless the appellate court orders, either *sua sponte* or on application, that the case record or document be opened.

CHAPTER 5. PERSONS WHO MAY TAKE OR PARTICIPATE IN APPEALS

FORMA PAUPERIS

Rule 552. Application to Trial Court for Leave to Appeal *In Forma Pauperis*.

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(f) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].—An application filed under this Rule shall contain the certificate of compliance required by Pa.R.A.P. 127.

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ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 910. Jurisdictional Statement. Content. Form.

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(c) *Certificate of compliance.*

(1) *Word count.*—A jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of paragraph (b) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the statement complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the statement.

(2) *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the*

Appellate and Trial Courts].—A jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

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Rule 911. Answer to Jurisdictional Statement. Content. Form.

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(b) *Certificate of compliance.*

(1) *Word count.*—An answer to a jurisdictional statement that does not exceed five pages when produced on a word processor or typewriter shall be deemed to meet the requirements of paragraph (a) of this rule. In all other cases, the attorney or the unrepresented filing party shall include a certification that the answer complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the answer.

(2) **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the Appellate and Trial Courts]**.—An answer to a jurisdictional statement shall contain the certificate of compliance required by Pa.R.A.P. 127.

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CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1116. Answer to the Petition for Allowance of Appeal.

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(e) *Certificate of compliance with Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the Appellate and Trial Courts]*.—An answer to a petition for allowance of appeal shall contain the certificate of compliance required by Pa.R.A.P. 127.

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CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF REPRODUCED RECORD

Rule 2152. Content and Effect of Reproduced Record.

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(d) “Confidential Information” and “Confidential Documents”, as those terms are defined in the **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the Appellate and Trial Courts]**, shall appear in the reproduced record in the same manner and format as they do in the original record.

Official Note: The general rule has long been that evidence which has no relation to or connection with the questions involved must not be reproduced. See former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. See also, e.g., *Shapiro v. Malarkey*, 122 A. 341, 342 (Pa. 1923); *Sims v. Pennsylvania R.R. Co.*, 123 A. 676, 679 (Pa. 1924).

See Pa.R.A.P. 2189 for procedure in cases involving the death penalty.

The **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the**

Appellate and Trial Courts] (“Public Access Policy”) does not apply retroactively to pleadings, documents, or other legal papers filed prior to the effective date of the Public Access Policy. Reproduced records may therefore contain pleadings, documents, or legal papers that do not comply with the Public Access Policy if they were originally filed prior to the effective date of the Public Access Policy.

Rule 2156. Supplemental Reproduced Record.

When, because of exceptional circumstances, the parties are not able to cooperate on the preparation of the reproduced record as a single document, the appellee may, in lieu of proceeding as otherwise provided in this chapter, prepare, serve, and file a supplemental reproduced record setting forth the portions of the record designated by the appellee. A supplemental reproduced record shall contain the certificate of compliance required by Pa.R.A.P. 127. “Confidential Information” and “Confidential Documents”, as those terms are defined in the **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the Appellate and Trial Courts]**, shall appear in the reproduced record in the same manner and format as they do in the original record.

Official Note: Former Supreme Court Rules 36, 38 and 57, former Superior Court Rules 28, 30, and 47 and former Commonwealth Court Rules 32A, 82, and 84 all inferentially recognized that a supplemental record might be prepared by the appellee, but the former rules were silent on the occasion for such a filing. The preparation of a single reproduced record has obvious advantages, especially where one party designates one portion of the testimony, and the other party designates immediately following testimony on the same subject. However, because of emergent circumstances or otherwise, agreement on the mechanics of a joint printing effort may collapse, without affording sufficient time for the filing and determination of an application for enforcement of the usual procedures. In that case an appellee may directly present the relevant portions of the record to the appellate court.

As the division of the reproduced record into two separate documents will ordinarily render the record less intelligible to the court and the parties, the preparation of a supplemental reproduced record is not favored and the appellate court may suppress a supplemental record which has been separately reproduced without good cause.

The **Case Records Public Access Policy of the Unified Judicial System of Pennsylvania[: Case Records of the Appellate and Trial Courts]** (“Public Access Policy”) does not apply retroactively to pleadings, documents, or other legal papers filed prior to the effective date of the Public Access Policy. Supplemental reproduced records may therefore contain pleadings, documents, or legal papers that do not comply with the Public Access Policy if they were originally filed prior to the effective date of the Public Access Policy.

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2171. Method of Reproduction. Separate Brief and Record.

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(b) *Separate brief and record.*—In all cases the reproduced record may be bound separately, and must be if it and the brief together contain more than 100 pages or if the reproduced record contains “Confidential Information”

or “Confidential Documents”, as those terms are defined in the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (“Public Access Policy”), in any pleadings, documents, or legal papers originally filed after the effective date of the Public Access Policy.

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CHAPTER 25. POST-SUBMISSION PROCEEDINGS

APPLICATION FOR REARGUMENT

Rule 2544. Contents of Application for Reargument.

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(d) *Certificate of compliance.*

(1) *Word count.*—An application for reargument that does not exceed 8 pages when produced on a word processor or typewriter shall be deemed to meet the limitation in paragraph (c) of this rule. In all other cases, the attorney or unrepresented filing party shall include a certification that the application for reargument complies with the word count limits. The certificate may be based on the word count of the word processing system used to prepare the application for reargument.

(2) *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].—An application for reargument shall contain the certificate of compliance required by Pa.R.A.P. 127.

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[Pa.B. Doc. No. 18-911. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 2020]

Order Amending Rules 205.6, 229.2, 240 and 2028 of the Rules of Civil Procedure; No. 681 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Civil Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 205.6, 229.2, 240, and 2028 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 205.6. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary’s office shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a “Redacted Version” and an “Unredacted Version.”

Rule 229.2. Petition to Transfer Structured Settlement Payment Rights.

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Official Note: The form of order does not preclude a court from adding additional language to the order as deemed appropriate in the individual circumstances of a case.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*]. See Rule 205.6.

Rule 240. In Forma Pauperis.

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Official Note: The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*]. See Rule 205.6.

CHAPTER 2020. MINORS AS PARTIES

Rule 2028. Actions By and Against Minors. Averments in Plaintiff’s Pleading.

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Official Note: An action against a minor is begun in the same manner as an action against an adult, although by Rule 2034 as under prior practice, the subsequent appointment of a guardian to represent the minor is essential to the rendition of a valid judgment against the minor.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 205.6.

[Pa.B. Doc. No. 18-912. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1900, 1910, 1915, 1920, 1930 AND 1950]

Order Amending Rules 1901.3, 1901.6, 1905, 1910.4, 1910.7, 1910.11, 1910.27, 1915.3, 1915.4-4, 1915.7, 1915.15, 1915.17, 1920.13, 1920.15, 1920.31, 1920.33, 1920.75, 1930.1, 1930.6, 1953 and 1959 of the Rules of Civil Procedure; No. 682 Civil Procedural Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1901.3, 1901.6, 1905, 1910.4, 1910.7, 1910.11, 1910.27, 1915.3, 1915.4-4, 1915.7, 1915.15, 1915.17, 1920.13, 1920.15, 1920.31, 1920.33, 1920.75, 1930.1, 1930.6, 1953, and 1959 of the Pennsylvania Rules of Civil Procedure are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on July 1, 2018.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1900. ACTIONS PURSUANT TO THE PROTECTION FROM ABUSE ACT

Rule 1901.3. Commencement of Action.

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Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*].

Rule 1901.6. Responsive Pleading Not Required.

The defendant is not required to file an answer or other responsive pleading to the petition or the certified order, and all averments not admitted shall be deemed denied.

Official Note: For procedures as to the time and manner of hearings and issuance of orders, see 23 Pa.C.S. § 6107. For provisions as to the scope of relief available, see 23 Pa.C.S. § 6108. For provisions as to contempt for violation of an order, see 23 Pa.C.S. § 6114.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*].

Rule 1905. Forms for Use in PFA Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

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(b) The petition in an action filed pursuant to the Act shall be substantially in the following form, but the first page (paragraphs 1 through 4), following the Notice of Hearing and Order, shall be exactly as set forth in this rule:

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*].

(c) The Temporary Order of Court, or any continued, amended, or modified Temporary Order of Court, entered pursuant to the Act shall be substantially in the following form, but the first page shall be exactly as set forth in this rule:

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CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.4. Commencement of Action. Fee.

(a) An action shall be commenced by filing a complaint with the domestic relations section of the court of common pleas.

Official Note: For the form of the complaint, see Pa.R.C.P. No. 1910.27(a).

See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*] shall apply.

Section 961 of the Judicial Code, 42 Pa.C.S. § 961, provides that each court of common pleas shall have a domestic relations section.

(b) No filing fee shall be required in advance.

Rule 1910.7. Pleading by Defendant Not Required. Question of Jurisdiction or Venue or Statute of Limitations in Paternity.

(a) An answer or other responsive pleading by the defendant shall not be required, but if the defendant

elects to file a pleading, the domestic relations office conference required by the order of court shall not be delayed.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] shall apply.

(b) If defendant raises a question of jurisdiction or venue or in paternity cases the defense of the statute of limitations, the court shall promptly dispose of the question and may, in an appropriate case, stay the domestic relations office conference.

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

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(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses, and proof of medical coverage that they may have or have available to them. In addition, the parties shall provide copies of their Income Statements and Expense Statements in the forms required by Pa.R.C.P. No. 1910.27(c) and completed as set forth in (1) and (2) of this subdivision.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] shall apply.

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Rule 1910.27. Form of Complaint. Order. Income Statements and Expense Statements. Health Insurance Coverage Information Form. Form of Support Order. Form Petition for Modification. Petition for Recovery of Support Overpayment.

(a) The complaint in an action for support shall be substantially in the following form:

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] shall apply.

(b) The order to be attached at the front of the complaint in subdivision (a) shall be substantially in the following form:

* * * * *

(c) The Income Statements and Expense Statements to be attached to the order in subdivision (b) shall be substantially in the following form:

(1) *Income Statements.* This form must be filled out in all cases.

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] shall apply.

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(2) *Expense Statements.* An Expense Statement is not required in cases that can be determined pursuant to the guidelines unless a party avers unusual needs and expenses that may warrant a deviation from the guideline amount of support pursuant to Pa.R.C.P. No. 1910.16-5 or seeks an apportionment of expenses pursuant to Pa.R.C.P. No. 1910.16-6. See Pa.R.C.P. No. 1910.11(c)(1). Child support is calculated under the guidelines based upon the monthly net incomes of the parties, with additional amounts ordered as necessary to provide for child care expenses, health insurance premiums, unreimbursed medical expenses, mortgage payments, and other needs, contingent upon the obligor's ability to pay. The Expense Statement in subparagraph (A) shall be utilized if a party is claiming that he or she has unusual needs and unusual fixed expenses that may warrant deviation or adjustment in a case determined under the guidelines. In child support, spousal support, and alimony *pendente lite* cases calculated pursuant to Pa.R.C.P. No. 1910.16-3.1 and in divorce cases involving claims for alimony, counsel fees, or costs and expenses pursuant to Pa.R.C.P. No. 1920.31(a), the parties shall complete the Expense Statement in subparagraph (B).

Official Note: See Pa.R.C.P. No. 1930.1(b). To the extent this rule applies to actions not governed by other legal authority regarding confidentiality of information and documents in support actions or that attorneys or unrepresented parties file support-related confidential information and documents in non-support actions (e.g., divorce, custody), the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] shall apply.

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CHAPTER 1915. ACTIONS FOR CUSTODY OF MINOR CHILDREN

Rule 1915.3. Commencement of Action. Complaint. Order.

(a) Except as provided by subdivision (c), an action shall be commenced by filing a verified complaint substantially in the form provided by Pa.R.C.P. No. 1915.15(a).

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].

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Rule 1915.4-4. Pre-Trial Procedures.

A pre-trial conference in an initial custody or modification proceeding shall be scheduled before a judge at the request of a party or sua sponte by the court and the procedure shall be as set forth in this rule. If a party wishes to request a pre-trial conference, the praecipe set forth in subdivision (g) shall be filed. The scheduling of a pre-trial conference shall not stay any previously scheduled proceeding unless otherwise ordered by the court.

(a) The praecipe may be filed at any time after a custody conciliation or conference with a conference officer unless a pre-trial conference has already been scheduled or held. The pre-trial conference may be scheduled at any time, but must be scheduled at least 30 days prior to trial.

(b) Not later than five days prior to the pre-trial conference, each party shall file a pre-trial statement with the prothonotary's office and serve a copy upon the court and the other party or counsel of record. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

(1) the name and address of each expert whom the party intends to call at trial as a witness;

(2) the name and address of each witness the party intends to call at trial and the relationship of that witness to the party. Inclusion of a witness on the pre-trial statement constitutes an affirmation that the party's counsel or the self-represented party has communicated with the witness about the substance of the witness's testimony prior to the filing of the pre-trial statement; and

(3) a proposed order setting forth the custody schedule requested by the party.

In addition to the above items included in the pre-trial statement, any reports of experts and other proposed exhibits shall be included as part of the pre-trial statement served upon the other party or opposing counsel, but not included with the pre-trial statement served upon the court.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

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Rule 1915.7. Consent Order.

If an agreement for custody is reached and the parties desire a consent order to be entered, they shall note their agreement upon the record or shall submit to the court a proposed order bearing the written consent of the parties or their counsel.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

Rule 1915.15. Form of Complaint. Caption. Order. Petition to Modify a Custody Order.

(a) The complaint in an action for custody shall be substantially in the following form:

* * * * *

Official Note: The form of complaint is appropriate if there is one plaintiff and one defendant and if the custody of one child is sought, or if the custody of several children is sought and the information required by paragraphs 3 to 7 is identical for all of the children. If there are multiple parties, the complaint should be appropriately adapted to accommodate them. If the custody of several children is sought and the information required is not identical for all of the children, the complaint should contain a separate paragraph for each child.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

(b) A petition to modify a custody order shall be substantially in the following form:

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Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

(c) The order to be attached at the front of the complaint or petition for modification shall be substantially in the following form:

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Rule 1915.17. Relocation. Notice and Counter-Affidavit.

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(i) The notice of proposed relocation shall be substantially in the following form:

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Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

(j) The counter-affidavit that must be served with the relocation notice shall be substantially in the following form as set forth in 23 Pa.C.S. § 5337(d):

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.13. Pleading More Than One Cause of Action. Alternative Pleading.

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(c) The court may order alimony pendente lite, reasonable counsel fees, costs and expenses pending final disposition of any claim.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

Rule 1920.15. Counterclaim. Subsequent Petition.

(a) The defendant may set forth in an answer under the heading "Counterclaim" a cause of action of divorce or for annulment and, whether the defendant does so or not, may set forth any other matter which under the Divorce Code may be joined with an action of divorce.

(b) The defendant may file to the same term and number a subsequent petition raising any claims which under the Divorce Code may be joined with an action of divorce or for annulment. The averments shall be deemed denied unless admitted by an answer.

Official Note: See Pa.R.C.P. No. 1920.31, which requires the joinder of certain related claims under penalty of waiver. A claim for alimony must be raised before the entry of a final decree of divorce or annulment.

See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

Rule 1920.31. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Costs and Expenses.

(a)(1) If a party has raised a claim for alimony, counsel fees, or costs and expenses, the parties shall file a true copy of the most recent federal income tax return, pay stubs for the preceding six months, a completed Income Statement in the form required by Pa.R.C.P. No. 1910.27(c)(1), and a completed Expense Statement in the form required by Pa.R.C.P. No. 1910.27(c)(2)(B). A party may not file a motion for the appointment of a master or a request for court action regarding alimony, alimony *pendente lite*, counsel fees, or costs and expenses until at least 30 days following the filing of that party's tax returns, Income Statement, and Expense Statement. The other party shall file the tax returns, Income Statement, and Expense Statement within 20 days of service of the moving party's documents. If a claim for child support, spousal support, or alimony *pendente lite* is raised in a divorce complaint, an Expense Statement is not needed in a support action that can be decided pursuant to the support guidelines unless a party claims unusual needs or unusual fixed expenses, seeks deviation pursuant to Pa.R.C.P. No. 1910.16-5, or apportionment of expenses pursuant to Pa.R.C.P. No. 1910.16-6.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file

confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

* * * * *

Rule 1920.33. Joinder of Related Claims. Equitable Division. Enforcement.

(a) If a pleading or petition raises a claim for equitable division of marital property under Section 3502 of the Divorce Code, the parties shall file and serve on the other party an inventory, which shall include the information in subdivisions (1) through (3) and shall be substantially in the form set forth in Pa.R.C.P. No. 1920.75. Within 20 days of service of the moving party's inventory, the non-moving party shall file an inventory. A party may not file a motion for the appointment of a master or a request for court action regarding equitable division until at least 30 days following the filing of that party's inventory.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

* * * * *

(b) Within the time required by order of court or written directive of the master or, if none, at least 60 days before the scheduled hearing on the claim for equitable division, the parties shall file and serve upon the other party a pre-trial statement. The pre-trial statement shall include the following matters, together with any additional information required by special order of the court:

* * * * *

(10) a proposed resolution of the economic issues raised in the pleadings.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

* * * * *

Rule 1920.75. Form of Inventory.

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*[: *Case Records of the Appellate and Trial Courts*].

CHAPTER 1930. RULES RELATING TO DOMESTIC RELATIONS MATTERS GENERALLY

Rule 1930.1. Form of Caption. Confidential Information and Confidential Documents. Certification.

* * * * *

(b) Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with the prothonotary's office shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule, or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

Rule 1930.6. Paternity Actions. Scope. Venue. Commencement of Action.

* * * * *

(c) An action shall be commenced by filing a verified complaint to establish paternity and for genetic testing substantially in the form set forth in subdivision (1). The complaint shall have as its first page the Notice of Hearing and Order set forth in subdivision (2).

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].

* * * * *

CHAPTER 1950. ACTIONS PURSUANT TO THE PROTECTION OF VICTIMS OF SEXUAL VIOLENCE OR INTIMIDATION ACT

Rule 1953. Commencement of Action.

* * * * *

(c) Any fees associated with this action shall not be charged to the plaintiff.

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records*

Public Access Policy of the Unified Judicial System of Pennsylvania [: *Case Records of the Appellate and Trial Courts*].

Rule 1959. Forms for Use in Protection of Victims of Sexual Violence or Intimidation Actions. Notice and Hearing. Petition. Temporary Protection Order. Final Protection Order.

* * * * *

(b) The petition in an action filed pursuant to the Act shall be identical in content to the following form:

* * * * *

Official Note: See Pa.R.C.P. No. 1930.1(b). This rule may require attorneys or unrepresented parties to file confidential documents and documents containing confidential information that are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*].

(c) The Temporary Order of Court, or any continued, amended or modified Temporary Order of Court, entered pursuant to the Act shall be identical in content to the following form:

* * * * *

[Pa.B. Doc. No. 18-913. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Rescinding and Replacing Rules 14.1—14.5 and Forms G-01—G-04 and Amending Rules 1.5, 5.10—5.12 and Index to Appendix of the Orphans' Court Rules; No. 770 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for public comments at 47 Pa.B. 4815 (August 19, 2017) and 47 Pa.B. 5930 (September 23, 2017):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) Rules 14.1 through 14.5 and Orphans' Court Forms G-01 through G-04 of the Pennsylvania Orphans' Court Rules are rescinded and replaced; and

2) Rules 1.5, 5.10 through 5.12, and the Index to Appendix of the Pennsylvania Orphans' Court Rules are amended;

in the following form. This Order shall be processed in accordance with Pa.R.J.A. No. 103(b). Forms G-02 through G-05 shall be effective July 1, 2018 for all new report filings as of that date. The remainder of this Order shall be effective June 1, 2019.

(*Editor's Note:* See 48 Pa.B. 3582 (June 16, 2018) for a related Supreme Court Order.)

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.5. Local Rules.

(a) All previously promulgated local rules are hereby vacated, effective September 1, 2016, except for those local rules promulgated under Chapter [14] XIV regarding guardianship of incapacitated persons, Chapter [15] XV regarding adoptions, and Chapter [16] XVI regarding proceedings pursuant to [section] Section 3206 of the Abortion Control Act.

(b) All previously promulgated local rules under Chapter XIV regarding guardianship of incapacitated persons are hereby vacated, effective June 1, 2019.

[(b)] (c) The requirements for the promulgation and amendment of local procedural rules for orphans' court proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

[(c)] (d) The local rules applicable to practice in the Civil or Trial Division of the local Court of Common Pleas shall not be applicable in the Orphans' Court Division unless so directed by these Rules or by local rule adopted by the court of the particular judicial district in accordance with Pa.R.J.A. No. [103] 103(d).

Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa. O.C. Rule 1.5 for the promulgation and amendment of local procedural rules for orphans' court proceedings were rescinded and replaced.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.10. Public Sale of Real Property.

(a) In addition to the requirements provided by the Rules in Chapter III, a petition for the public sale of real property shall set forth the reason for filing the petition, a description, stating the size and location of the property to be sold, and the liens and charges to which it is subject.

(b) Public notice of the sale shall be given as required by law and as may be further required by local rule or as the court may order in a particular matter.

Note: Rule 5.10 is substantively identical to former Rule 12.9. **If a person who has been adjudicated incapacitated possesses an interest in the subject real property, see also Rule 14.10.**

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

(a) *Contents of Petition.* In addition to the requirements provided by the Rules in Chapter III, a petition for the private sale or exchange of real property, or for the grant of an option for any such sale or exchange, shall set forth the following:

(1) the information required in a petition for the public sale of real property under Rule 5.10(a); and

(2) the name and address of the proposed purchaser and the terms of the proposed sale, exchange or option, the consideration therefor, and that this consideration is more than can be obtained at public sale.

(b) *Exhibits.* The petition shall be supported by the affidavits of at least two competent persons setting forth that they have inspected the real property to be sold, exchanged or optioned, that they are not personally interested in the proposed sale, exchange or option, that they are acquainted with the value of real estate in the area, that in their opinion the proposed consideration is more than can be obtained at public sale, and in the case of an exchange, that they are acquainted with the value of real estate in the locality of the property to be received.

Note: Rule 5.11 is substantively identical to former Rule 12.10. **If a person who has been adjudicated incapacitated possesses an interest in the subject real property, see also Rule 14.10.**

Rule 5.12. Mortgage or Lease of Real Property.

In addition to the requirements provided by the Rules in Chapter III, a petition to mortgage or lease real property shall set forth the following:

(a) the information required in a petition for the public sale of real property under Rule 5.10(a), as far as practicable; and

(b) the name of the proposed mortgagee or lessee and the terms of the proposed mortgage or lease.

Note: Rule 5.12 is substantively identical to former Rule 12.11. **If a person who has been adjudicated incapacitated possesses an interest in the subject real property, see also Rule 14.10.**

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

(*Editor's Note:* Rules 14.2—14.5 of the Orphans' Court Rules, which appear in 231 Pa. Code pages 14-1 and 14-2, serial pages (382157) and (382158), are reserved.)

Rules 14.2—14.5. (Reserved).

(*Editor's Note:* Rules 14.1—14.14 are added and printed in regular type to enhance readability.)

Rule 14.1. Guardianship Petition Practice and Pleading.

(a) *Proceedings for Adjudication of Incapacity and Appointment of a Guardian.* The following petition practice and pleading requirements set forth in Chapter III (Petition Practice and Pleading) shall be applicable to proceedings for the adjudication of incapacity and appointment of a guardian:

- (1) Rule 3.2 (Headings; Captions);
- (2) Rule 3.3 (Contents of All Petitions; General and Specific Averments);
- (3) Rule 3.12 (Signing);
- (4) Rule 3.13 (Verification); and
- (5) Rule 3.14 (Amendment).

(b) *Responsive Pleadings to a Petition for Adjudication of Incapacity and Appointment of a Guardian Filed Pursuant to Rule 14.2.*

(1) Permitted responsive pleadings to a petition seeking the adjudication of incapacity and appointment of a guardian are limited to those identified in Rule 3.6 (Pleadings Allowed After Petition) and shall be subject to Rules 3.10 (Denials; Effect of Failure to Deny) and 3.11 (Answer with New Matter).

(2) The alleged incapacitated person and any person or institution served pursuant to Rule 14.2(f)(2) may file a responsive pleading.

(3) Any responsive pleading shall be filed with the clerk and served pursuant to Rule 4.3 (Service of Legal Paper Other than Citations or Notices) on all others entitled to file a responsive pleading pursuant to subparagraph (b)(2).

(4) All responsive pleadings shall be filed and served no later than five days prior to the hearing. The failure to file or timely file and serve a responsive pleading does not waive the right to raise an objection at the hearing.

(5) The court shall determine any objections at the adjudicatory hearing.

(c) *All Other Petitions for Relief.* Unless otherwise provided by Rule in this Chapter, the petition practice and pleading requirements set forth in Chapter III shall be applicable to any proceeding under these Rules other than a petition seeking the adjudication of incapacity and appointment of a guardian. "Interested party" as used in Chapter III shall include all those entitled to service pursuant to Rule 14.2(f).

(d) *Intervention.* A petition to intervene shall set forth the ground on which intervention is sought and a statement of the issue of law or question of fact the petitioner seeks to raise. The petitioner shall attach to the petition a copy of any pleading that the petitioner will file if permitted to intervene. A copy of the petition shall be served pursuant to all those entitled to service pursuant to Rule 14.2(f).

Explanatory Comment: This Rule is intended to specify the provisions and procedures of Chapter III that are applicable to proceedings under Chapter XIV. In proceedings for the adjudication of incapacity and appointment of a guardian, responsive pleadings are permitted as a means of identifying contested legal issues and questions of fact prior to the adjudicatory hearing. However, given the abbreviated time for filing a responsive pleading relative to other proceedings (*Compare* Pa. O.C. Rule 3.7(a)), the failure to file a responsive pleading should not operate to preclude an issue or objection from being raised and considered at the hearing. Such pleadings should not be filed as a means of delaying the hearing on the merits of the petition.

The practice for other petitions is to follow the requirements of Chapter III. Nothing in this Rule is intended to prevent relief being sought on an expedited basis, provided the petitioner or respondent is able to establish circumstances to the satisfaction of the court warranting disregard of procedural requirements. *See* Pa. O.C. Rule 1.2(a).

Rule 14.2. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

(a) *Petition Contents.* A petition to adjudicate an individual as an incapacitated person and appoint a guardian shall state in plain language:

(1) Name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the alleged incapacitated person;

(2) Name, date of birth, residence, and mailing address, if different, of the alleged incapacitated person;

(3) Names and addresses of the spouse, parents, and presumptive intestate heirs of the alleged incapacitated person and whether they are *sui juris* or non *sui juris*;

(4) Name and address of the person or institution providing residential services to the alleged incapacitated person;

(5) Names and addresses of other service providers and nature of services being provided;

(6) Whether there is an executed health care power of attorney or advance health care directive pursuant to Title 20, Chapter 54, and if so, the name and address of the person designated in the writing to act as the agent;

Note: See 20 Pa.C.S. §§ 5421 et seq. for health care power of attorney and advance health care directive (combination of a living will and health care power of attorney).

(7) Whether there is an executed power of attorney pursuant to Title 20, Chapter 56, and if so, the name and address of the person designated in the writing to act as the agent;

Note: See 20 Pa.C.S. §§ 5601 et seq. for power of attorney.

(8) Whether there is any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54 or 58 authorizing another to act on behalf of the alleged incapacitated person, and if so, the name and address of the person designated;

Note: See 20 Pa.C.S. §§ 5441—5447 for Living Will Act; 20 Pa.C.S. §§ 5451—5465 for Health Care Agents and Representatives Act; 20 Pa.C.S. §§ 5821—5826 for Advance Directive for Mental Health Act; 20 Pa.C.S. §§ 5831—5845 for Mental Health Care Agents Act.

(9) Reason(s) why guardianship is sought, including a description of functional limitations and the physical and mental condition of the alleged incapacitated person;

(10) If not plenary, then specific areas of incapacity over which it is requested that the guardian be assigned powers;

(11) The probability of whether the physical condition and mental condition of the alleged incapacitated person will improve;

(12) Whether there has been a prior incapacity hearing concerning the alleged incapacitated person, and if so, the name of the court, the date of the hearing, and the determination of capacity;

(13) Steps taken to find a less restrictive alternative than a guardianship;

(14) If a guardian of the estate is sought:

(i) the gross value of the estate and net income from all sources, to the extent known; and

(ii) whether there is a prepaid burial account, to the extent known;

(15) Whether the alleged incapacitated person is a veteran of the United States Armed Services, and whether the alleged incapacitated person is receiving benefits from the United States Veterans' Administration on behalf of himself or herself or through a spouse; and

(16) Name and address, if available, of any person that the petitioner proposes should receive notice of the filing of guardianship reports pursuant to Rule 14.8(b), which may include any person identified in paragraphs (a)(3)—(a)(8).

(b) *Nomination of Guardian.* The petition shall also include:

(1) The name, address, and mailing address, if different, of the proposed guardian whom the petitioner nominates to be appointed guardian and the nominee's relationship, if any, to the alleged incapacitated person. If the proposed guardian is an entity, then the name of the person or persons to have direct responsibility for the alleged incapacitated person and the name of the principal of the entity;

(2) Whether the proposed guardian has any adverse interest to the alleged incapacitated person;

(3) Whether the proposed guardian is available and able to visit or confer with the alleged incapacitated person;

(4) Whether the proposed guardian has completed any guardianship training, including the name of the training program, length of the training, and date of completion;

(5) Whether the proposed guardian has any guardianship certification, the current status of the certification, and any disciplinary action related to the certification;

(6) Whether the proposed guardian is or was a guardian in any other matters and, if so, the number of active matters; and

(7) If the petition nominates a different proposed guardian of the estate from the proposed guardian of the person, then the information required in subparagraphs (b)(1)—(b)(6) as to each nominee.

(c) *Exhibits.* The following exhibits shall be appended to the petition:

(1) All writings referenced in paragraphs (a)(6)—(a)(8), if available;

(2) The certified response to a Pennsylvania State Police criminal record check, with Social Security Number redacted, for each proposed guardian issued within six months of the filing of the petition;

(i) If any proposed guardian has resided outside the Commonwealth within the previous five-year period and was 18 years of age or older at any time during that period, then the petition shall include a criminal record check obtained from the statewide database, or its equivalent, in each state in which such proposed guardian has resided within the previous five-year period.

(ii) When any proposed guardian is an entity, the person or persons to have direct responsibility for the alleged incapacitated person and the principal of the entity shall comply with the requirements of subparagraph (c)(2).

Note: For information on requesting a criminal record check from the Pennsylvania State Police, see <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>.

(3) Any proposed orders as required by Rule 3.4(b); and

(4) Any consent or acknowledgement of a proposed guardian to serve.

(d) *Emergency Guardian.* A petition seeking the appointment of an emergency guardian shall aver with specificity the facts giving rise to the emergent circumstances and why the failure to make such an appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

Note: Limitations on emergency guardianships are prescribed by statute. See 20 Pa.C.S. § 5513.

(e) *Separate Petitions.* Separate petitions shall be filed for each alleged incapacitated person.

(f) *Citation with Notice.* A citation with notice using the form provided in the Appendix to these Rules shall be attached to and served with the petition and any preliminary order as follows:

(1) By personal service upon the alleged incapacitated person no less than 20 days prior to the hearing. Additionally, the content and terms of the petition shall be explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand.

(2) In a manner permitted by Rule 4.3 no less than 20 days prior to the hearing upon:

(i) All persons *sui juris* who would be entitled to an intestate share in the estate of the alleged incapacitated person;

(ii) The person or institution providing residential services to the alleged incapacitated person;

(iii) Any person named in paragraphs (a)(6)—(a)(8); and

(iv) Such other entities and persons as the court may direct, including service providers.

Note: For notice to the United States Veterans' Bureau, see 20 Pa.C.S. § 8411.

(3) For a petition seeking the appointment of an emergency guardian, the court may direct the manner of service as emergent circumstances warrant. Thereafter, notice shall be served in accordance with Rule 14.2(f)(2).

Explanatory Comment: Concerning the requirement of a criminal record check set forth in paragraph (c)(2), the Pennsylvania State Police has created the Pennsylvania Access to Criminal History ("PATCH") System to enable the public to obtain criminal history record checks via Internet request. The certified response from the Pennsylvania State Police criminal history record check need not be notarized to comply with the requirements of this rule. Any response other than "no record" may require supplementation at the discretion of the court.

Rule 14.3. Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert.

(a) A petitioner may seek to offer into evidence an expert report for the determination of incapacity in lieu of testimony, in-person or by deposition, of an expert using the form provided in the Appendix to these rules. In an emergency guardianship proceeding, an expert report may be offered into evidence if specifically authorized by the court.

(b) *Notice.*

(1) If a petitioner seeks to offer an expert report permitted under paragraph (a), the petitioner shall serve a copy of the completed report upon the alleged incapacitated person's counsel and all other counsel of record pursuant to Rule 4.3 or, if unrepresented, upon the alleged incapacitated person, pursuant to Pa.R.C.P. No. 402(a) by a competent adult no later than ten days prior to the hearing on the petition.

(2) If a petitioner seeks to offer an expert report, as permitted under paragraph (a), the petitioner shall serve pursuant to Rule 4.3 a notice of that fact upon those entitled to notice of the petition and hearing no later than ten days prior to the hearing on the petition.

(3) The petitioner shall file a certificate of service with the court as to paragraphs (b)(1) and (b)(2).

(c) *Demand.*

(1) Within five days of service of the completed report provided in paragraph (b)(1), the alleged incapacitated person's counsel or, if unrepresented, the alleged incapacitated person, may file with the court and serve upon the petitioner pursuant to Rule 4.3 a demand for the testimony of the expert.

(2) If a demand for testimony is filed and served as provided herein, then the expert report may not be admitted and an expert must provide testimony at the hearing, whether in-person or by deposition.

(d) Unless otherwise demanded pursuant to paragraph (c)(2), in the sole discretion of the court, incapacity may be established through the admission of an expert report prepared in compliance with the form provided in the Appendix to these rules. The expert must be qualified by training and experience in evaluating individuals with incapacities of the type alleged in the petition. The expert must sign, date, and verify the completed expert report.

(e) In the interest of justice, the court may excuse the notice and demand requirements set forth in paragraphs (b) and (c).

Explanatory Comment: This Rule is intended to permit the alleged incapacitated person to exercise the right to cross-examine testimony as to the capacity of the alleged incapacitated person. See 20 Pa.C.S. § 5518.1. Permitting the use of an expert report in compliance with this Rule replaces the requirement of testimony, in-person or by deposition, of an expert. See 20 Pa.C.S. § 5518. "Deposition," as used in this Rule is intended to be a deposition conducted in accordance with the Pennsylvania Rules of Civil Procedure. The Rule is permissive; whether an expert report is admitted in lieu of testimony is in the sole discretion of the court. Nothing in this Rule is intended to preclude the court from requiring testimony from the expert or otherwise requiring supplementation.

Rule 14.4. Counsel.

(a) *Retention of Counsel.* If counsel for the alleged incapacitated person has not been retained, the petitioner shall notify the court in writing at least seven days prior to the adjudicatory hearing that the alleged incapacitated person is unrepresented and also indicate whether the alleged incapacitated person has requested counsel.

(b) *Private Counsel.* If the alleged incapacitated person has retained private counsel, counsel shall prepare a comprehensive engagement letter for the alleged incapacitated person to sign, setting forth when and how counsel was retained, the scope of counsel's services, whether those services include pursuing any appeal, if necessary, how counsel will bill for legal services and costs and the hourly rate, if applicable, who will be the party considered responsible for payment, whether any retainer is required, and if so, the amount of the retainer. Counsel shall provide a copy of the signed engagement letter to the court upon request.

(c) *Appointed Counsel.* The court may appoint counsel if deemed appropriate in the particular case. Any such order appointing counsel shall delineate the scope of counsel's services and whether those services include pursuing any appeal, if necessary.

(d) *Other Counsel.* Counsel for any other party shall enter an appearance in accordance with Rule 1.7(a).

Explanatory Comment: Reasonable counsel fees, when appropriate, should be paid from the estate of the alleged incapacitated person whenever possible. If the

alleged incapacitated person is unable to pay for counsel, then the court may order counsel fees and costs to be paid by the county. See 20 Pa.C.S. § 5511(c). Any fee dispute should be resolved in a timely and efficient manner to preserve resources in order to maintain the best possible quality of life for the incapacitated person.

Rule 14.5. Waiver or Modification of Bond.

(a) *Request.* A request for the court to waive or modify a bond requirement for a guardian of the estate may be raised within the petition for adjudication of incapacity or at any other time by petition.

(b) *Waiver or Modification.* The court may order the waiver or modification of a bond requirement for good cause.

(c) *Assurance.* If the court waives or modifies a bond requirement, then the court shall consider the necessity and means of periodic demonstration of continued good cause.

Explanatory Comment: Pursuant to 20 Pa.C.S. § 5515, the provisions of Sections 5121—5123 of Title 20 relating to bonding requirements are incorporated by reference into Chapter 55 proceedings. When property is held by the incapacitated person as fiduciary, see 20 Pa.C.S. § 5516. "Good cause" may include, but is not limited to, an estate of nominal value, fluctuation in the size of the estate, adequate insurance maintained by the guardian against risk of loss to the estate, the creditworthiness of the guardian, and assets of the guardian relative to the value of the estate.

Rule 14.6. Determination of Incapacity and Selection of Guardian.

(a) *Determination of Incapacity.* The procedure for determining incapacity and for appointment of a guardian shall meet all requirements set forth at 20 Pa.C.S. §§ 5511, 5512, and 5512.1. In addition, the petitioner shall present the citation and proof of service at the hearing.

Note: See *In re Peery*, 727 A.2d 539 (Pa. 1999) (holding a person does not require a guardian if there is no need for guardianship services).

(b) *Selection of Guardian.* If guardianship services are needed, then the court shall appoint the person nominated as such in a power of attorney, a health care power of attorney, an advance health care directive, a mental health care declaration, or mental health power of attorney, except for good cause shown or disqualification. Otherwise, the court shall consider the eligibility of one or more persons to serve as guardian in the following order:

(1) *Guardian of the Person:*

- (i) The guardian of the estate;
- (ii) The spouse, unless estranged or an action for divorce is pending;
- (iii) An adult child;
- (iv) A parent;
- (v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;
- (vi) An adult sibling;
- (vii) An adult grandchild;
- (viii) Other adult family member;
- (ix) An adult who has knowledge of the alleged incapacitated person's preferences and values, including, but

not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions; or

(x) Other qualified proposed guardian, including a professional guardian.

(2) *Guardian of the Estate.* When the estate of the incapacitated person consists of minimal assets or where the proposed guardian possesses the skills and experience necessary to manage the finances of the estate:

- (i) The guardian of the person;
- (ii) The spouse unless estranged or an action for divorce is pending;
- (iii) An adult child;
- (iv) A parent;
- (v) The nominee of a deceased or living parent of an unmarried alleged incapacitated person;
- (vi) An adult sibling;
- (vii) An adult grandchild;
- (viii) Other adult family member; or
- (ix) An adult who has knowledge of the alleged incapacitated person's preferences and values, including, but not limited to religious and moral beliefs, and would be able to assess how the alleged incapacitated person would make decisions.

Where no individual listed in subparagraphs (i)—(ix) of paragraph (b)(2) possesses the skills and experience necessary to manage the finances of the estate, the guardian of the estate may be any qualified proposed guardian, including a professional guardian or corporate fiduciary.

Explanatory Comment: If a principal nominates a guardian pursuant to a power of attorney, a health care power of attorney, an advance health care directive, which is a combination of a living will and a health care power of attorney, a mental health care declaration, or mental health power of attorney, then court must appoint that person as guardian except for good cause or disqualification. See 20 Pa.C.S. § 5604(c)(2) (power of attorney); 20 Pa.C.S. § 5460(b) (health care power of attorney); 20 Pa.C.S. § 5422 (defining “advance health care directive”); 20 Pa.C.S. § 5823 (mental health declaration); 20 Pa.C.S. § 5841(c) (mental health power of attorney); see also 20 Pa.C.S. § 5511(f) (who may be appointed guardian).

Rule 14.7. Order and Certificate.

(a) *Order Adjudicating Incapacity and Appointing Guardian.*

(1) An order adjudicating incapacity and appointing a guardian shall address:

- (i) the type of guardianship being ordered and any limits, if applicable;
- (ii) the continued effectiveness of any previously executed powers of attorney or health care powers of attorney and the authority of such agent to act under the document;
- (iii) the necessity of filing reports pursuant to Rule 14.8(a); and
- (iv) the person or persons entitled to receive notice of the filing of such reports, pursuant to Rule 14.8(b).

(2) An order adjudicating incapacity and appointing a guardian shall contain a provision substantially in the following form:

[Incapacitated person] is hereby notified of the right to seek reconsideration of this Order pursuant to Rule 8.2 and the right to appeal this Order within 30 days from the date of this Order by filing a Notice of Appeal with the Clerk of the Orphans' Court. [Incapacitated person] may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. [Incapacitated person] has a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and [incapacitated person] cannot afford an attorney, an attorney will be appointed to represent [incapacitated person] free of charge.

(b) *Order Adjudicating Incapacity and Appointing Guardian of Estate.*

(1) In addition to the requirements set forth in paragraph (a)(1), an order adjudicating incapacity and appointing a guardian of the estate shall address:

- (i) whether a bond is required and when the bond is to be filed; and
- (ii) whether the guardian can spend principal without prior court approval.

(2) In addition to the requirement set forth in paragraph (a)(2), an order adjudicating incapacity and appointing a guardian of the estate shall contain a provision substantially in the following form:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the guardian of [incapacitated person]'s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

(c) *Certificate of Guardianship of Estate.* Upon the request of the guardian of the estate, the clerk shall issue a certificate substantially in the following form:

(Caption)

I CERTIFY that on _____, after giving full consideration to the factors set forth in Chapter 55 of the Probate, Estates, and Fiduciaries Code, 20 Pa.C.S. §§ 5501 *et seq.*, in the above-captioned matter, the Court adjudged _____ an incapacitated person and appointed _____ as plenary guardian of the estate.

FURTHER, I CERTIFY the Court, *inter alia*, ordered that:

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages shall grant to the guardian of [incapacitated person]'s estate access to any and all assets, records, and accounts maintained for the benefit of [incapacitated person], and the guardian of [incapacitated person]'s estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all said assets, records, and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions.

Witness my hand and seal of said Court
this ___ day of _____, ___ .

[seal]

CLERK OF ORPHANS' COURT

Explanatory Comment: The requirements of paragraph (a) are intended to apply to all guardianship orders. The items addressed and contained in the order, as set forth in paragraphs (a) and (b), are not exhaustive. The court may fashion a guardianship of a person order to inform health care providers of the guardian's authority, including the authority to give informed consent to proposed treatment, to share information, and to make decisions for the incapacitated person. *See also In re DLH*, 2 A.3d 505 (Pa. 2010) (discussing whether guardian has authority concerning life-preserving care); 20 Pa.C.S. § 5460(a) (requiring the court to determine the extent of agent's authority under a health care power of attorney); 20 Pa.C.S. § 5604(c)(3) (requiring the court to determine the extent of agent's authority under a durable power of attorney).

Rule 14.8. Guardianship Reporting, Monitoring, Review, and Compliance.

(a) *Reporting.* A guardian shall file the following reports with the clerk:

(1) An inventory by the guardian of the estate within 90 days of such guardian's appointment;

(2) An annual report by the guardian of the estate of an incapacitated person one year after appointment and annually thereafter;

(3) An annual report by the guardian of the person one year after appointment and annually thereafter;

(4) A final report by the guardian of the person and the guardian of the estate within 60 days of the death of the incapacitated person, an adjudication of capacity, a change of guardian, or the expiration of an order of limited duration; and

(5) A final report from the guardian of the person and the guardian of the estate upon receipt of the provisional order from another state's court accepting transfer of a guardianship.

(b) *Notice of Filing.* If, pursuant to Rule 14.7(a)(1)(iv), the order appointing the guardian identifies the person or persons entitled to receive notice of the filing of any report set forth in paragraph (a), the guardian shall serve a notice of filing within ten days after filing a report using the form provided in the Appendix to these Rules. Service shall be in accordance with Rule 4.3.

(c) *Design of Forms.* The Court Administrator of Pennsylvania, in consultation with the Orphans' Court Procedural Rules Committee and the Advisory Council on Elder Justice in the Courts, shall design and publish forms necessary for the reporting requirements set forth in paragraph (a).

(d) *Monitoring.* The clerk or the court's designee shall monitor the guardianship docket to confirm the guardian's compliance with the reporting requirements set forth in paragraph (a).

(e) *Review.* The court or its designee shall review the filed reports.

(f) *Compliance.* To ensure compliance with these reporting requirements:

(1) If any report is deemed incomplete or is more than 20 days delinquent, then the clerk or the court's designee shall serve notice on the guardian directing compliance within 20 days, with a copy of the notice sent to the court and the guardian's counsel, if represented.

(2) If the guardian fails to comply with the reporting requirements within 20 days of service of the notice, then the clerk or the court's designee shall file and transmit a notice of deficiency to the adjudicating judge and serve a notice of deficiency on those persons named in the court's order pursuant to Rule 14.7(a)(1)(iv) as being entitled to receive a notice of filing.

(3) The court may thereafter take such enforcement procedures as are necessary to ensure compliance.

Explanatory Comment: The reporting forms are available at <http://www.pacourts.us/forms/for-the-public/orphans-court-forms>. This Rule is silent as to the manner of proceeding when reports are deficient or warrant further investigation, or when the guardian is recalcitrant after being given notice by the clerk or the court's designee. In its discretion, the court may order further documentation, conduct a review hearing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings.

Rule 14.9. Review Hearing.

(a) *Initiation.* A review hearing may be requested by petition or ordered by the court.

(b) *Petition.* A petition for a review hearing shall set forth:

(1) the name, age, address, and mailing address, if different, of the petitioner and the petitioner's relationship to the incapacitated person;

(2) the date of the adjudication of incapacity;

(3) the names and addresses of all guardians;

(4) if the incapacitated person has been a patient in a mental health facility, the name of such facility, the date of admission, and the date of discharge;

(5) the present address of the incapacitated person, and the name of the person with whom the incapacitated person is living;

(6) the names and addresses of the presumptive intestate heirs of the incapacitated person and whether they are *sui juris* or non *sui juris*; and

(7) an averment that:

(i) there has been significant change in the incapacitated person's capacity and the nature of that change;

(ii) there has been a change in the need for guardianship services and the nature of that change; or

(iii) the guardian has failed to perform duties in accordance with the law or act in the best interest of the incapacitated person, and details as to the duties that the guardian has failed to perform or has performed but are allegedly not in the best interests of the incapacitated person.

(c) *Service.* The petition shall be served in accordance with Rule 4.3 upon the incapacitated person and those entitled to notice pursuant to Rule 14.2(f)(2).

(d) *Hearing.* The review hearing shall be conducted promptly after the filing of the petition with notice of the hearing served upon those served with the petition pursuant to paragraph (c).

Explanatory Comment: Nothing in this Rule is intended to preclude the court from scheduling a review hearing upon its own initiative or in the order adjudicating incapacity and appointing a guardian. For the court's disposition of a petition for a review hearing and evidentiary burden of proof, see 20 Pa.C.S. § 5512.2.

Rule 14.10. Proceedings Relating to Real Property.

(a) *Applicable Rules.* A petition for the public or private sale, exchange, lease, or mortgage of real property of an incapacitated person or the grant of an option for the sale, exchange, or lease of the same shall conform as far as practicable to the requirements of these Rules for personal representatives, trustees, and guardians of minors in a transaction of similar type.

(b) *Objection.* The guardian shall include in the petition an averment as to whether the guardian knows or has reason to know of any objection of the incapacitated person to the proposed transaction, the nature and circumstances of any such objection, and whether expressed before or after the adjudication of incapacity.

Note: See Pa. O.C. Rules 5.10, 5.11, and 5.12.

Rule 14.11. Transfer of Guardianship of the Person to Another State.

(a) *Petition.* A petition filed by a guardian appointed in Pennsylvania to transfer the guardianship of the person to another state must plead sufficient facts to demonstrate:

(1) the incapacitated person is physically present in or is reasonably expected to move permanently to the other state;

(2) plans for care and services for the incapacitated person in the other state are reasonable and sufficient;

(3) the court to which the guardianship will be transferred; and

(4) the guardianship will likely be accepted by the other state's court.

(b) *Service.* The guardian shall serve a copy of the petition in accordance with Rule 4.3 upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f)(2).

(c) *Objections.* Any person entitled to service of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.

(d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.

(e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:

(1) issue an order provisionally granting the petition to transfer the guardianship and directing the guardian to petition for acceptance of the guardianship in the other state; and

(2) issue a final order confirming the transfer and relinquishing jurisdiction upon receipt of the provisional order from the other state's court accepting the transfer and the filing of the final report of the guardian.

Explanatory Comment: See Subchapter C of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. §§ 5921—5922. This petition may also include a request to transfer the guardianship of the estate to another state as provided in Rule 14.12. The likelihood that the guardianship may be accepted by

other state's court may be established by evidence of the state having procedures similar to Rule 14.13.

Rule 14.12. Transfer of Guardianship of the Estate to Another State.

(a) *Petition.* A petition filed by a guardian appointed in Pennsylvania to transfer the guardianship of the estate must plead sufficient facts to demonstrate:

(1) the incapacitated person is:

(i) physically present in the other state;

(ii) reasonably expected to move permanently to the other state; or

(iii) significantly connected to the other state.

(2) adequate arrangements will be made for the management of the incapacitated person's estate;

(3) the court to which the guardianship will be transferred; and

(4) the guardianship will likely be accepted by the other state's court.

(b) *Service.* The guardian shall serve a copy of the petition in accordance with Rule 4.3 upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f)(2).

(c) *Objections.* Any person entitled to service of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.

(d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.

(e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:

(1) issue an order provisionally granting the petition to transfer the guardianship and directing the guardian to petition for acceptance of the guardianship in the other state; and

(2) issue a final order confirming the transfer and relinquishing jurisdiction upon receipt of the provisional order from the other state's court accepting the transfer and the filing of the final report of the guardian.

Explanatory Comment: See Subchapter C of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. §§ 5921—5922. For factors used to determine the significance of the incapacitated person's connection with the other state, see 20 Pa.C.S. § 5911(b). This petition may also include a request to transfer the guardianship of the person to another state as provided in Rule 14.11. The likelihood that the guardianship may be accepted by the other state's court may be established by evidence of the state having procedures similar to Rule 14.13.

Rule 14.13. Acceptance of a Guardianship Transferred from Another State.

(a) A petition to confirm the transfer of a guardianship from another state to Pennsylvania shall:

(1) plead sufficient facts to demonstrate:

(i) the eligibility of the guardian for appointment in Pennsylvania;

(ii) the proceeding in the other state approving the transfer was conducted in a manner similar to Rules 14.11 or 14.12 (concerning transfer of guardianship);

(1) include a certified copy of the other state’s provisional order approving the transfer; and

(2) include a certified copy of the petition and order determining initial incapacity in the other state.

(b) *Service.* The guardian shall serve a copy of the petition in the manner and upon the incapacitated person and those entitled to service pursuant to Rule 14.2(f).

(c) *Objections.* Any person entitled to notice of the petition may file an answer with the clerk raising objections alleging that the transfer would be contrary to the interests of the incapacitated person.

(d) *Hearing.* If needed, the court shall conduct an evidentiary hearing on the petition.

(e) *Orders.* Upon finding that the allegations contained in the petition have been substantiated and the objections, if any, have not been substantiated, the court shall:

(1) issue an order provisionally granting the petition to confirm transfer of the guardianship; and

(2) upon receiving a final order from the court transferring the guardianship, the court shall issue a final order accepting the guardianship, appointing the guardian appointed previously by the court of the other state as the guardian in Pennsylvania, and directing the guardian to comply with the reporting requirements of Rule 14.8.

Explanatory Comment: See Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. § 5922(f) (court’s consideration of a modification of guardianship).

Rule 14.14. Forms.

The following forms located in the Appendix shall be used exclusively:

- (a) Important Notice—Citation with Notice (G-01);
- (b) Report of Guardian of the Estate (G-02);
- (c) Report of Guardian of the Person (G-03);
- (d) Guardian’s Inventory for a Minor (G-04);
- (e) Guardian’s Inventory for an Incapacitated Person (G-05);
- (f) Guardianship of Incapacitated Person: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4 (OC-03);
- (g) Guardianship of Minor: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4 (OC-04);
- (h) Expert Report (G-06); and
- (i) Notice of Filing (G-07).

Explanatory Comment: In accordance with Rule 1.8, these forms must be used exclusively and cannot be replaced or supplanted by a local form.

INDEX TO APPENDIX
 ORPHANS’ COURT AND REGISTER OF WILLS FORMS
 ADOPTED BY SUPREME COURT
 PURSUANT TO Pa. O.C. Rule 1.8

Available as Fill-in Forms on Website of Administrative Office of Pennsylvania Courts

[<http://www.pacourts.us/Forms/OrphansCourtForms.htm>]

<http://www.pacourts.us/forms/for-the-public/orphans-court-forms>

Orphans’ Court and Administration Forms

* * * * *

B. Guardianship Forms

1. Important Notice—Citation with Notice (Pa. O.C. Rule [14.5] 14.2)	G-01
2. [Annual Report—Guardian of Estate] Report of Guardian of the Estate	G-02
3. [Annual Report—Guardian of Person] Report of Guardian of the Person	G-03
4. Guardian’s Inventory <u>for a Minor</u>	G-04
5. Guardian’s Inventory for an Incapacitated Person	G-05
[5.] 6. Guardianship of Incapacitated Person: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4	OC-03*
[6.] 7. Guardianship of Minor: Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 2.4	OC-04**
8. Expert Report	G-06
9. Notice of Filing	G-07

*Form OC-3 is not reprinted here and is located under Audit and Administration Forms at No. 3.

**Form OC-4 is not reprinted here and is located under Audit and Administration Forms at No. 4.

* * * * *

COURT OF COMMON PLEAS OF

ORPHANS' COURT DIVISION

To _____ :

**IMPORTANT NOTICE
CITATION WITH NOTICE**

A Petition has been filed with this Court to have you declared an Incapacitated Person. If the Court finds you to be an Incapacitated Person, your rights will be affected, including your right to manage money and property and to make decisions. A copy of the Petition which has been filed by _____ is attached.

You are hereby ordered to appear at a hearing to be held in Courtroom No. _____, _____, Pennsylvania on _____, 20____ at _____ .m. to tell the Court why it should not find you to be an Incapacitated Person and appoint a Guardian to act on your behalf.

To be an Incapacitated Person means that you are not able to receive and effectively evaluate information and communicate decisions and that you are unable to manage your money and/or other property, or to make necessary decisions about where you will live, what medical care you will get, or how your money will be spent.

At the hearing, you have the right to appear, to be represented by an attorney, and to request a jury trial. If you do not have an attorney, you have the right to request the Court to appoint an attorney to represent you and to have the attorney's fees paid for you if you cannot afford to pay them yourself. You also have the right to request that the Court order that an independent evaluation be conducted as to your alleged incapacity.

If the Court decides that you are an Incapacitated Person, the Court may appoint a Guardian for you, based on the nature of any condition or disability and your capacity to make and communicate decisions. The Guardian will be of your person and/or your money and other property and will have either limited or full powers to act for you.

To: _____:

If the Court finds you are totally incapacitated, your legal rights will be affected and you will not be able to make a contract or gift of your money or other property. If the Court finds that you are partially incapacitated, your legal rights will also be limited as directed by the Court.

If you do not appear at the hearing (either in person or by an attorney representing you), the Court will still hold the hearing in your absence and may appoint the Guardian requested.

By: _____
Orphans' Court Clerk

COURT OF COMMON PLEAS
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

REPORT OF GUARDIAN OF THE ESTATE

Estate of: _____, an Incapacitated Person
Name of Incapacitated Person

Case File No: _____

DATE COURT APPOINTED YOU AS GUARDIAN: _____

PART I. INTRODUCTION

1. Name(s) of Guardian(s): _____

2. Is this a limited Guardianship?

Yes

No

3. Report Period

This is the **Report** for the period from _____ to _____
_____ (the "**Report Period**"); or

This is the **Final Report** for the period from _____ to _____
_____ (the "**Report Period**") and is filed for the following reason:

The death of the Incapacitated Person.

Date of Death: _____

Name of Executor/Administrator: _____

The Guardianship was terminated by a court order dated: _____

Transfer of Guardianship to: _____

Date of court order approving transfer: _____

PART II. INCOME

1. List all sources of income received during the **Report Period**:

Did the Incapacitated Person receive any of the following?		Amount During Report Period
Alimony or Support	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Annuity Payments	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Dividends	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Interest Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
IRA Distributions	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Long Term Care Insurance Benefits	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Pension/Retirement Benefits (for example: 401(k), 403(b), etc.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Public Assistance	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Rental Property Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Royalties (including from mineral and land rights)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Social Security Benefits (Retirement, Disability, SSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tax Refund	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Trust Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Veterans Benefits (disability/pension/aid and attendance)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Wages	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Worker's Compensation Benefits	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Other	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	TOTAL	0

PART III. ANNUAL EXPENSES

1. List all payments made for the care and maintenance of the Incapacitated Person during the **Report Period**.

Expense	To Whom Was It Paid?	Total for Report Period
Auto Insurance		
Cable/Satellite/Internet		
Child/Spousal Support/Alimony		
Clothing		
Condo/Co-op Assessments		
Debt (incurred prior to your appointment)		
Entertainment		
Fees/Costs Paid to Guardian		
Food		
Gifts - Personal or Charitable		
Home Health Care/Personal Aide		
Homeowners Insurance		
Home/Property Maintenance & Repair		
Income Taxes		
Life Insurance Premiums		
Medical Insurance Premiums		
Medical Expenses		
Medicine		
Mortgage		
Nursing Home/Assisted Living/Institutionalized Care		
Personal Expenses (including allowance)		
Phone/Cell Phone		
Real Estate Taxes		
Rent		
Utilities		
Other		
	TOTAL	0

2. Does the Incapacitated Person have a credit card(s)? Yes No
 If **yes**, has it been used during this report period? Yes No

What is the current balance on the credit card(s)? _____

PART IV. COMPARING INCOME AND EXPENSES

1. Total Income (Part II, Question 1 TOTAL): 0
 2. Unspent Income from Previous Year (Part IV, Question 5 from Last Year's Report): _____
 3. Add lines 1 and 2 together to calculate this year's TOTAL INCOME: 0
 4. Total Expense (Part III, Question 1 TOTAL): 0
 5. Subtract line 4 from line 3.
 If amount is positive, enter it here to show UNSPENT INCOME, otherwise enter \$0: 0
 6. Subtract line 4 from line 3.
 If amount is negative, enter it here to show PRINCIPAL SPENT, otherwise enter \$0: 0
 7. Is line 6, PRINCIPAL SPENT, greater than \$0?

- Yes
 No

If **yes**, was a court order obtained?

Yes - Date of Court Order: _____

No - Explain why court approval was not obtained:

PART V. ASSETS

1. What was the value of the assets reported on the Inventory? _____
 2. List any additional assets received during the **Report Period** (for example: gifts, inheritance, burial account, lawsuit recovery, etc.)

Description/Source	Value at the end of Report Period
TOTAL	0

3. Where are **all** the assets deposited or held at the end of the **Report Period**?

List of Assets: Type and Location	Co-Owners	Value at the end of Report Period
TOTAL		0

4. Does the incapacitated person own a house/condo/co-op?

Yes - Answer Questions a - e No

a. Address of property: _____

b. Does the Incapacitated Person live in the house/condo/co-op? Yes No

c. If purchased during the **Report Period**, what was the purchase price? _____

d. If real property was sold during the **Report Period**, what was the sale price? _____

e. Was a court order obtained if property was purchased or sold?

Yes - Date of Court Order: _____

No - Explain why court approval was not obtained:

5. List any assets transferred to a third party such as a spouse or child.

Asset	Transferred To	Relationship to IP	Amount	Order Date or Reason Not Approved

PART VI. GUARDIAN'S COMPENSATION

1. Did the Guardian receive compensation during the **Report Period**?

Yes - Complete the table below No - Skip to Question 3

Amount	Guardian Name	Is Amount Based on Hourly, Monthly or Annual Fee?

2. Was the compensation approved by the court?

Yes - Date of Court Order: _____

No - Explain why court approval was not obtained:

3. Have you maintained a log of your activities as guardian?

Yes - Attach a copy No

PART VII. ATTORNEY'S FEES

1. Were attorney's fees paid during the **Report Period**?

Yes - Complete the table below No - Skip to Part VIII

Amount	Name of Counsel	Hourly Rate	# of Hours	Order Date or Reason Not Approved

PART VIII. REPRESENTATIVE PAYEE

1a. Social Security Administration (SSA) Benefits

The Incapacitated Person does not receive SSA benefits.

The Guardian acts as the representative payee - attach a copy of the report provided to the SSA during this **Report Period**.

The Guardian is not the representative payee for SSA benefits. The payee is _____.

1b. Veterans Administration (VA) Benefits

- The Incapacitated Person does not receive VA benefits.
- The Guardian acts as the representative payee - attach a copy of the report provided to the VA during this **Report Period**.
- The Guardian is not the representative payee for VA benefits. The payee is _____.

PART IX. SURETY INFORMATION

1. Was a surety bond required?

- Yes - In what amount _____ - and then answer Questions a - b.
- No - The court waived a surety bond, skip to Question 2.

a. Is the surety bond still in effect?

- Yes
- No - Provide an explanation as to why not.

b. Is the value of the estate at the end of the **Report Period** greater than the amount reported at the end of the prior report period?

- Yes
- No

If **yes**, has the amount of the surety bond been increased?

- Yes. To what amount: _____
- No

2. If you are a professional guardian, agency or an attorney serving as guardian, do you have professional/guardian liability insurance that covers theft?

- Yes - Answer Question a and b.
- No - Skip to Part X.
- N/A

a. Are the coverage limits greater than the assets (Part V, Question 3)?

- Yes
- No

b. Describe the deductible and any exclusions.

PART X. GUARDIAN INFORMATION

1. During this **Report Period**, did any guardian participate in guardianship training?

- Yes
 No

If yes, provide the following information:

Guardian Name	Dates of Training		Provider	Training Description
	Starting	Ending		

2. During this **Report Period**, have any judgments been filed against any guardian, or has any guardian filed for bankruptcy protection?

- Yes - Please describe No
Guardian Name *Description*

3. During this **Report Period**, was any guardian charged with or convicted of a crime?

- Yes - Please describe No
Guardian Name *Description*

4. Is there any reason any guardian cannot continue to serve as guardian?

- Yes - Please describe No
Guardian Name *Description*

PART XI. SUMMARY

1. If this is the first annual report, state the value of the assets reported on the Inventory. (Use amount from Part V, Question 1 of <i>this</i> Report.) (principal)	
2. If this is not the first annual report, state the Total Assets (principal) from the prior Report. (Use TOTAL amount from Part V, Question 3 of <i>prior</i> Report.)	
3. What was the total income received during the Report Period ? (Use the amount from Part IV, Question 3 of <i>this</i> Report.)	0
4. What is the total amount of Expenses paid during the Report Period ? (Use the amount from Part III, Question 1 of <i>this</i> Report.)	0
5. What are the Total Assets remaining at the end of the Report Period ? (Use the amount from Part V, Question 3 of <i>this</i> Annual Report.)	0
6. What is the Unspent Income at the end of the Report Period ? (Use the amount from Part IV, Question 5 of <i>this</i> Report.)	0

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this verification is subject to the penalties of 18 Pa.C.S. §4904 relative to unsworn falsification to authorities.

Effective June 1, 2019, I further acknowledge the Notice of Filing must be served within 10 days of the filing of this report pursuant to Pa. O.C. Rule 14.8(b).

Date

Signature of Guardian of the Estate

Name of Guardian of the Estate (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Cell Phone Number

Email

Date

Signature of Co-Guardian of the Estate

Name of Co-Guardian of the Estate (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Email

COURT OF COMMON PLEAS
_____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

REPORT OF GUARDIAN OF THE PERSON

Estate of: _____, an Incapacitated Person
Name of Incapacitated Person

Case File No: _____

DATE COURT APPOINTED YOU AS GUARDIAN: _____

PART I. INTRODUCTION

1. Name(s) of Guardian(s): _____

2. Is this a limited Guardianship? Yes No

3. Report Period

This is the **Report** for the period from _____ to _____ (the "**Report Period**"); or

This is the **Final Report** for the period from _____ to _____ (the "**Report Period**") and is filed for the following reason:

The death of the Incapacitated Person.
Date of Death: _____
Name of Executor/Administrator: _____

The Guardianship was terminated by a court order dated: _____

Transfer of Guardianship to: _____
Date of court order approving transfer: _____

IF THIS IS A FINAL REPORT, ONLY COMPLETE PARTS I AND V.

PART II. PERSONAL INFORMATION ABOUT THE INCAPACITATED PERSON

1. Incapacitated Person's date of birth: ____/____/____

2. Incapacitated Person's Current Residence:

3. Residence of the Incapacitated Person

Incapacitated Person's home (with part-time home health care aide or 24/7 assistance)

Your home

Relative's home
Relative's Name: _____ Relationship: _____

Domiciliary Care
Facility Name: _____

Personal Care Boarding Home
Facility Name: _____

Is this a Memory Support Facility? Yes No

Assisted Living Facility
Facility Name: _____

Is this a Memory Support Facility? Yes No

Nursing Home Facility
Facility Name: _____

Is this a Memory Support Facility? Yes No

Other: _____

4. The Incapacitated Person has been in the residence noted in question 3 since: _____

5. Has the Incapacitated Person moved during the **Report Period**?

Yes

No

If **yes**, date of move: _____

If **yes**, please provide:

Reason for move: _____

Previous residence/address: _____

PART III. MEDICAL INFORMATION

1. List the medical professionals who have seen the Incapacitated Person during the **Report Period**:

	Name
Medical Doctor	
Dentist	
Eye Doctor	
Ear Doctor	
Psychologist or Psychiatrist	
Physical Therapist	
Occupational Therapist	
Social Worker	
Geriatric Caseworker	
Other	

2. The major medical or psychiatric problems of the Incapacitated Person are as follows:

3. Describe any social, medical, psychological and support services the Incapacitated Person is receiving:

4. Has the Incapacitated Person been hospitalized during the **Report Period**?

- Yes
- No

If yes, date(s) of hospitalization: _____

5. Has the Incapacitated Person received a mental health assessment during the **Report Period**?

- Yes
- No

If yes, date(s) of evaluation: _____

PART IV. GUARDIAN'S OPINION

1. Should the guardianship be:

- Continued
 Continued with modifications
 Terminated

2. Provide the reasons for your opinion. List specific recommended modifications.

3. Have you filed a petition for modification or termination?

- Yes
 No

PART V. INFORMATION ABOUT THE GUARDIAN

1. On average, how often did you visit the Incapacitated Person during the **Report Period**?

- I live with the Incapacitated Person
 None
 Quarterly
 Monthly
 Weekly
 Daily

2. What is the average length of a visit?

- Less than 15 minutes
 Between 15 minutes and 1 hour
 Between 1 and 2 hours
 More than 2 hours
 Not applicable

3. Have you maintained a log of your activities as guardian?

- Yes - Attach a copy
 No

4. During this **Report Period**, did any guardian participate in guardianship training?

Yes

No

If **yes**, provide the following information:

Guardian Name	Dates of Training		Provider	Training Description
	Starting	Ending		

5. During this **Report Period**, was any guardian charged with or convicted of a crime?

Yes - Please describe No

Guardian Name

Description

6. During this **Report Period**, was a Protection from Abuse Order or Protection from Sexual Violence or Intimidation Order entered against any guardian?

Yes - Please describe No

Guardian Name

Description

7. Is there any reason any guardian cannot continue to serve as guardian?

Yes - Please describe No

Guardian Name

Description

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this verification is subject to the penalties of 18 Pa.C.S. §4904 relative to unsworn falsification to authorities.

Effective June 1, 2019, I further acknowledge the Notice of Filing must be served within 10 days of the filing of this report pursuant to Pa. O.C. Rule 14.8(b).

Date

Signature of Guardian of the Person

Name of Guardian of the Person (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Cell Phone Number

Email

Date

Signature of Co-Guardian of the Person

Name of Co-Guardian of the Person (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Cell Phone Number

Email

COURT OF COMMON PLEAS OF _____ COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

GUARDIAN'S INVENTORY FOR A MINOR

Estate of _____, } a Minor

No. _____

1. Real Estate: (Location, by whom occupied and rental terms, if applicable)

Estimated Value:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Sub-Total for Real Estate:

2. Personal Property:

Estimated Value:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

3. Jointly Held Property:

(Set forth real and personal property owned by the Minor JOINTLY with any other person(s). State whether held as tenants by the entireties; if not, whether the right of survivorship exists.)

Jointly Held Property

Estimated Value:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Estate of _____ } a Minor

4. Anticipated Assets:

Estimated Value:

(Set forth property of any kind expected to be acquired hereafter, together with anticipated date of acquisition.)

<i>Property</i>	<i>Anticipated Date of Acquisition</i>
_____	_____
_____	_____
_____	_____

Sub-Total for Personal Estate:

Attach Additional Sheets if necessary

TOTAL OF ITEMS 1, 2, 3, and 4:

Commonwealth of Pennsylvania :
: ss.
County of _____ :

_____, says that the foregoing is a full, true and complete
Guardian
Inventory of the Estate of _____, a Minor; and that all of the
information set forth herein is true and correct to the best of the Guardian's knowledge and
belief.

I verify that the statements made in this)
Inventory are true and correct. I under-)
stand that false statements herein are)
made subject to the penalties of)
18 Pa.C.S. § 4904 relating to unsworn)
falsification to authorities.)

Guardian Signature

Attorney for Guardian: _____

Supreme Court I.D. No.: _____

Address: _____

Telephone: _____

2. Is any property (specifically bank accounts or real estate) co-owned by the Incapacitated Person and the guardian?

Yes

No

If yes:

a. On what date was the property acquired? _____

b. On what date was the guardian's name added? _____

c. The guardian is:

an individual having access or control over the account

an owner of the account

3. Does the Incapacitated Person have a homeowners insurance policy for real property?

Yes (Copy of policy to be provided upon request)

No

If yes:

a. Carrier: _____

b. Coverage period: _____

4. Does the Incapacitated Person have an automobile insurance policy?

Yes (Copy of policy to be provided upon request)

No

If yes:

a. Carrier: _____

b. Coverage period: _____

5. Does the Incapacitated Person have a safe deposit box?

No

Yes, in sole name

Yes, in joint name(s). List the name(s) of joint owner(s): _____

If yes:

a. Location of safe deposit box: _____

b. Are there plans to inventory the contents?

Yes

No

PART III: ANNUAL INCOME

1. List all sources of income for the Incapacitated Person:

Does the Incapacitated Person receive any of the following as income?		Specify Amount
Alimony or Support	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Annuity Payments	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Dividends	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Interest Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
IRA Distributions	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Long Term Care Insurance Benefits	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Pension/Retirement Benefits (for example: 401(k), 403(b), etc.)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Public Assistance	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Rental Property Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Royalties (including from mineral and land rights)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Social Security Benefits (Retirement, Disability, SSI)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Tax Refund	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Trust Income	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Veterans Benefits (disability/pension/aid and attendance)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Wages	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Workers' Compensation Benefits	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Other	<input type="checkbox"/> Yes <input type="checkbox"/> No	
TOTAL		0

PART VI: PERSONAL CARE PLAN

1. Can the Incapacitated Person remain in his or her current residence with assistance, or in the home of a relative?

- Yes
- No
- N/A - The Incapacitated Person is already in a supervised residential setting.

If yes:

- a. List the name of the responsible family member:

- b. What services does the Incapacitated Person require?
 - Services from local Area Agency on Aging
 - Private Companion/Assistance Service
 Number of days per week: _____
 Number of hours per week: _____
 - Assistance from family members
 Will compensation be provided?
 Yes
 No
 If yes, indicate compensation amount: _____

2. Will the Incapacitated Person be moved into a supervised residential setting?

- Yes
- No
- N/A - The Incapacitated Person is already in a supervised residential setting.

If yes:

- a. Indicate the type of supervised residential setting:
 - Domiciliary Care
 - Personal Care
 - Boarding Home / Group Home
 - Assisted Living Facility
 - Nursing Home
 - Other: _____
- b. Describe the steps that are being taken to move the Incapacitated Person into a supervised residential setting.

PART VII: FINANCIAL PLAN

1. Complete the following table using initial inventory or most recent amended inventory.

a. Total Annual Income (Part III, Question 1)	0	d. Total assets (principal) (Part II, Question 1)	0
b. Annual estimated expenses			
c. Net Income (a minus b)	0		

2. Is the net income listed above sufficient to care for the needs of the Incapacitated Person?

- Yes
- No, but assets (principal) are available if a court order approves expenditures
- No, and assets (principal) are not available

3. Indicate any applications for government benefits that have been submitted:

Application Type	Date of Submission
Social Security Disability Insurance (SSDI)	
Supplemental Security Income (SSI)	
Social Security Retirement Benefits	
Veterans Benefits	
Medical assistance, long term care	
Medical assistance, Home Waiver	
Other (Explain: _____)	

4. Describe all real estate included in the estate and how it will be maintained or sold:

5. Prior to the appointment of a guardian, has an agent under a Power of Attorney been serving?

Yes

No

If **yes**, has an accounting ever been requested or filed with the Orphans' Court?

Yes

No

If **yes**, was the agent the same person as the guardian?

Yes

No

PART VIII: MEDICAL INFORMATION

1. Is a "no-code" (Do Not Resuscitate) provision in place for the incapacitated person?

Yes

No

2. When still capacitated, did the Incapacitated Person execute a durable power of attorney for health care or some other health care directive (including, but not limited to, a POLST, a living will, or a mental health care power of attorney)?

Yes

No

If **yes**, identify the authorized agent for making health care decisions:

3. Are you aware of any will or trust executed by the Incapacitated Person, or any funeral or burial wishes of the Incapacitated Person?

Yes

No

If **yes**, please explain:

Has a burial account been established for the Incapacitated Person?

Yes

No

If **yes**, what is the value of the burial account? _____

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this Verification is subject to the penalties of 18 Pa.C.S. §4904 relative to unsworn falsification to authorities.

Effective June 1, 2019, I further acknowledge the Notice of Filing must be served within 10 days of the filing of this report pursuant to Pa. O.C. Rule 14.8(b).

Date

Signature of Guardian of the Estate

Name of Guardian of the Estate (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Cell Phone Number

Email

Date

Signature of Co-Guardian of the Estate (if applicable)

Name of Co-Guardian of the Estate (type or print)

Address

City, State, Zip

Home Phone Number

Office Phone Number

Cell Phone Number

Email

INSTRUCTIONS FOR SUBMITTING AN EXPERT REPORT

To establish incapacity, the petitioner must present testimony from an individual qualified by training and experience in evaluating persons with incapacities of the type alleged by the petitioner. As an accommodation to such expert witnesses, the court may accept a complete and legible expert report in accordance with the attached form in lieu of expert testimony, whether in person or by deposition, unless otherwise required by rule or order of court.

COURT OF COMMON PLEAS OF
 _____ COUNTY PENNSYLVANIA
 ORPHANS' COURT DIVISION

EXPERT REPORT

RE: _____
An Alleged Incapacitated Person (AIP)

No. _____

PART I: PROFESSIONAL BACKGROUND (You may attach your curriculum vitae, if it provides answers to Questions 1 through 5. Please answer those questions not covered by curriculum vitae.)

1. Name: _____ Title: _____

2. Professional Address: _____

3. Complete education information:

	Name of Institution	Type of Degree Received	Date Completed
Undergraduate			
Graduate			
Post-Graduate			

4. Do you have any active professional licenses? Yes No
 If **yes**, indicate in what state or states you are licensed as well as the date(s) issued.

List any board certifications: _____

5. An Incapacitated Person is legally defined as: An adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he/she is partially or totally unable to manage his/her financial resources or to meet essential requirements for his/her physical health and safety.

Do you have experience evaluating whether or not an individual is incapacitated? Yes No

If **yes**, indicate the basis of your experience:

PART II: ALLEGED INCAPACITATED PERSON (AIP)

6. a. Have you treated, assessed, or evaluated the AIP?

Yes No

b. Indicate the date(s) and location of any treatment, assessment, or evaluation you have provided or made over the last two (2) years:

c. If 6a. is yes, what tests have you or others administered, e.g., mini mental status exam (MMSE), Montreal Cognitive Assessment (MOCA), St. Louis University Mental Status Exam (SLUMS), etc.? List dates administered and the score. (Attach test results, not just the score.)

7. What is the present condition of the AIP? List all known medical and psychiatric diagnoses and current symptoms. (You may attach a list from your records.)

<u>Diagnosis</u>	<u>Symptoms/Manifestations</u>

8. List all known medications, including over-the-counter, that the AIP is taking. For each known medication, indicate, if known, the prescribing physician and the diagnosis for which the medication was prescribed or the reason for taking. (You may attach a list from your records.)

<u>Medication</u>	<u>Diagnosis/Reason Taken</u>	<u>Prescribing Physician</u>

9. Indicate the AIP’s ability to perform the following functions:

	Unimpaired	Needs Some Help (Explain in #10)	Totally Impaired	Not Assessed or Not Enough Information
Receiving and evaluating information effectively	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Communicating decisions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ability to give informed consent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Short-term memory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Long-term memory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Activities of daily living	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Managing finances (including paying bills, making deposits, withdrawals and working with financial institutions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Managing health care (including following doctor’s orders and managing/taking medications)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Providing for physical safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Responding to emergency situations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ability to resist scams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. For any response in Question 9 where the AIP “needs some help,” please describe the type and extent of assistance needed.

11. What recommendations have you made or would you make concerning services necessary to meet the essential requirements for the AIP’s physical health and safety?

12. What recommendations have you made or would you make concerning management of the AIP's finances?

13. As indicated in Question 5, an Incapacitated Person is legally defined as: An adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he/she is partially or totally unable to manage his/her financial resources or to meet essential requirements for his/her physical health and safety.

In your expert opinion, within a reasonable degree of professional certainty and based on your knowledge, skills, experience, and education, is the AIP incapacitated?

Yes, totally impaired Yes, partially impaired No

14. In your opinion, the most appropriate, least restrictive living situation for the AIP is (check one):

The AIP can be left alone without supervision
 Home (with part-time home health aide or 24/7 assistance)
 Independent living facility (room and board provided, emergency services readily available)
 Assisted living facility (room and board provided, assistance with some activities of daily living)
 Secure facility (Alzheimer's/Mental Health for safety and basic needs)
 Skilled nursing facility

15. If your responses in Question 9 indicated that the AIP is totally impaired or "needs some help", do you expect the AIP's abilities in the next 6 months to (Check best estimate):

Stay the same Improve Decline

Please explain:

PART III: GUARDIANSHIP AND SERVICES

16. Are you aware of any circumstances, medical or otherwise, that create a need for the appointment of an emergency guardian for the AIP?

Yes No

If yes, indicate reasons:

17. The AIP is required to be at the hearing, absent circumstances that could cause harm to the AIP. Putting aside whether the court proceeding may be moderately upsetting to, confusing to or not understood by the AIP, do you believe that the AIP's presence at the hearing would cause harm to the AIP's physical or mental condition?

Yes No

Indicate reason for response:

18. Please provide any additional information that could assist the court in determining incapacity.

I verify that the foregoing information is correct to the best of my knowledge, information and belief; and that this verification is subject to the penalties of 18 Pa.C.S. § 4904 relative to unsworn falsification to authorities.

Date

Signature

Name (type or print)

Address

City, State, Zip

Telephone

Email

COURT OF COMMON PLEAS OF
COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION

NOTICE OF FILING

ESTATE/GUARDIANSHIP OF _____,
AN INCAPACITATED PERSON

_____, GUARDIAN

No. _____

I certify that on _____ I filed the following documents:

- Inventory
- Amended Inventory
- Annual Report - Guardian of the Person
- Annual Report - Guardian of the Estate
- Final Report

A copy of this Notice of Filing is being served on the following person(s) designated by court order and in the following manner:

1. _____

- By mail
- By fax
- By personal delivery
- By e-mail if requested

2. _____

- By mail
- By fax
- By personal delivery
- By email if requested

3. _____

- By mail
- By fax
- By personal delivery
- By email if requested

4. _____

- By mail
- By fax
- By personal delivery
- By email if requested

Submitted by:

_____ *Date*

_____ *Signature*

_____ *Name (print or type)*

_____ *Address*

_____ *City, State, Zip*

_____ *Telephone*

_____ *Email*

Instructions for Document Access

If you are one of the individuals noted above to whom this notice of filing was sent, you may access and view the documents filed by presenting this notice of filing along with proper identification to the Clerk of the Orphans' Court in the county listed on the previous page.

**ORPHANS' COURT PROCEDURAL RULES
COMMITTEE REPORT**

**Amendment of Pa. O.C. Rules 1.5 & 5.10—5.12;
Rescission of Pa. O.C. Rules 14.1—14.5 and Orphans'
Court Forms G-01 through G-04; Adoption of New
Pa. O.C. Rules 14.1 through 14.14 and Orphans'
Court Forms G-01—G-07; and Amendment of the
Index to the Appendix**

On June 1, 2018, the Supreme Court of Pennsylvania adopted a comprehensive rewrite of the Pennsylvania Orphans' Court Rules related to guardianship proceedings pursuant to Title 20, Chapters 55 and 59. The rules were previously published for comment at 47 Pa.B. 5930 (September 23, 2017); 47 Pa.B. 4815 (August 19, 2017); and 46 Pa.B. 7934 (December 17, 2016).

Contained within this Report is the Orphans' Court Procedural Rules Committee's commentary related to the new rules. Please note that the Court does not adopt the Committee's commentary.

Rule 1.5 Local Rules

Through amendment of Rule 1.5 and operation of Order, No. 771 Supreme Court Rules Docket (June 1, 2018), all previously promulgated local rules concerning guardianship proceedings are vacated, effective June 1, 2019. For a local guardianship rule of procedure to be effective on June 1, 2019, it must be deemed necessary by the judicial district in light of the new statewide rules and be submitted to the Orphans' Court Procedural Rules Committee no later than December 1, 2018. This deadline is calculated to afford the Committee sufficient time to review the local rules, respond to the judicial district, and permit publication in the *Pennsylvania Bulletin* pursuant to Pa.R.J.A. No. 103(d). Submissions after December 1, 2018 will be accepted; however, the Committee may not be able to give late submissions sufficient priority to clear the review process before June 1, 2019. The effective date of the new local rules and new Chapter IV rules should coincide, *i.e.*, June 1, 2019.

Rules 5.10-5.12 Transactions Related to Real Property

Cross-references to Rule 14.10 were added to the Notes when the transaction involves the real property of an incapacitated person.

Rule 14.1 Guardianship Petition Practice and Pleading

A number of comments inquired as to the extent that the requirements in Chapter III of the Pennsylvania Orphans' Court Rules concerning petition practice and pleading requirements would apply to guardianship proceedings. Rule 14.1 was crafted to place different requirements on petitions for the adjudication of incapacity and appointment of a guardian on one hand and all other petitions on the other hand. Paragraph (a) incorporated by reference and applied specific aspects of Chapter III to petitions for adjudication and appointment. Paragraph (b) provided for the filing of responsive pleadings in these proceedings, but does so on a limited basis and subject to a shorter time frame than Chapter III. While the Committee did not believe that such pleadings were going to be used frequently, a procedural mechanism should exist for contested guardianship proceedings.

It should be noted that responsive pleadings under paragraph (b) are permissive and not required—there are no “default judgments” with respect to the adjudication of incapacity. Further, the paragraph was not intended to preclude the judge from hearing objections first raised at the adjudicatory hearing. Finally, the judge was to decide

the objections at the adjudicatory hearing rather than delaying that hearing with another to determine objections.

For all other petitions, paragraph (c) operates to apply the Chapter III requirements to those pleadings, subject to the modification of “interested party.” The Committee recognizes that Chapter III imposes more formal requirements on what were often informal proceedings. However, the provisions of Chapter III were designed to afford due process to all involved, and the Committee believes that petition practice in guardianship matters required no less protection. As observed in the Explanatory Comment, the requirements were not intended to preclude a petitioner from seeking relief on an emergency or expedited basis when circumstances warrant departure from strict adherence to the Chapter III requirements.

Paragraph (d) was intended to provide a procedure for a person to seek permission to intervene in a proceeding. This mechanism was crafted as recognition that those entitled to service pursuant to Rule 14.2(f) may not include all potentially aggrieved parties, *e.g.*, business partner, fiancé, best friend.

Rule 14.2 Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person

The required content of a petition set forth in the rule was intended to include those requisites set forth in 20 Pa.C.S. § 5511(c) as well as information to assist the court in determining capacity, the need for a guardian, the appointment of a guardian for the estate and/or the person, and the scope of a guardianship, as the case may be. An additional requirement was the identification of any person or persons who are to receive notice of the filing of reports.

Concerning persons who should be identified in and served with the petition, the Committee studied the interplay of Chapters 54, 55, 56, and 58 of Title 20. When a person has nominated a guardian in an instrument or there is a surrogate decision maker, it opens a number of residual issues. First, if a principal nominates a guardian pursuant to a power of attorney, a health care power of attorney, an advance health care directive (which is a combination of a living will and a health care power of attorney), a mental health care declaration, or mental health power of attorney, then the court must appoint that person as guardian except for good cause or disqualification. *See* 20 Pa.C.S. § 5604(c)(2) (power of attorney); 20 Pa.C.S. § 5460(b) (health care power of attorney); 20 Pa.C.S. § 5422 (defining “advance health care directive”); 20 Pa.C.S. § 5823 (mental health declaration); 20 Pa.C.S. § 5841(c) (mental health power of attorney); *see also* Pa. O.C. Rule 14.6(b). Moreover, the court must determine the extent to which an agent's authority to act remains in effect under a power of attorney or a health care power of attorney. *See* 20 Pa.C.S. § 5604(c)(3); 20 Pa.C.S. § 5460(a); *see also* Pa. O.C. Rule 14.7(a)(1)(ii). Notably, if a principal who has executed a mental health power of attorney is later adjudicated an incapacitated person, the mental health power of attorney shall remain in effect. 20 Pa.C.S. § 5841(b)(1).

Second, in addition to the above-agents, there may be surrogate decision makers pursuant to a living will or by operation of law. *See* 20 Pa.C.S. § 5447 (a living will can contain a designation of a health care agent if the principal is incompetent and has an end-stage medical condition or is permanently unconscious); 20 Pa.C.S. § 5461 (a health care representative can make decisions

for an incompetent person if the person does not have a health care power of attorney or a guardian has not been appointed for the person). These surrogate decision makers have an interest in the proceeding because the powers they currently exercise will be affected by a guardianship.

Therefore, the rules require that all these agents should be first identified in the petition pursuant to Rule 14.2(a)(6)—(a)(8). Rather than reference the myriad statutes by individual citation, the rule text references the applicable Chapter in Title 20. To the extent that writings exist related to the agent's authority, the writings are to be appended to the petition pursuant to Rule 14.2(c)(1). Further, these agents are to be served with the petition pursuant to Rule 14.2(f)(2)(iii).

Rule 14.2(a)(16) is intended to identify in the petition who should receive notice of the filing of the inventory and reports. This is a new statewide procedure. The court's order adjudicating incapacity and appointing a guardian is required to contain those entitled to receive notice of the filing of those reports. See Pa. O.C. Rule 14.7(a)(1)(iv). The notice of filing is required to be served on those entitled to receive notice after a report is filed. See Pa. O.C. Rule 14.8(b). The form of the notice of filing is set forth in Form G-07. A person entitled to receive the notice of filing may then access and view the report filed by presenting the notice to the clerk of the orphans' court.

Paragraph (b)(1) requires the petitioner to identify those individuals who will have direct responsibility for the alleged incapacitated person if the proposed guardian is an entity. This paragraph also requires the principal of the entity to be identified. Designating those persons having direct responsibility may be challenging at this stage in a guardianship proceeding, but doing so is necessary for the purpose of the criminal record check requirement. For those entities using a team approach or rotating assignments, identification of all likely individuals will be necessary.

Paragraph (b)(4) requires the petition to include whether the proposed guardian has completed any guardianship training. Paragraph (b)(5) requires disclosure of whether the proposed guardian is certified and any disciplinary history related to the certification. Paragraph (b)(6) requires the petitioner to include the current caseload for the guardian. Such information will assist the judge in the guardian selection process.

Rule 14.2(f)(2)(i) was revised post-publication to specifically limit service to only *sui juris* intestate heirs rather than both *sui juris* and non-*sui juris* heirs. This aligns the rule more closely with the statute. See 20 Pa.C.S. § 5511(a).

Rule 14.3 Alternative Proof of Incapacity: Expert Report in Lieu of In-Person or Deposition Testimony of Expert

In 2015, the Committee published for comment the Task Force's proposed form entitled "Deposition by Written Interrogatories of Physician or Licensed Psychologist" as part of a larger package of forms. See 45 Pa.B. 1070 (March 7, 2015). In 2016, the Committee published proposed new Rule 14.6 and a revised form for comment. See 46 Pa.B. 2306 (May 7, 2016). Retitled "written deposition," the proposed form was intended to be completed by the evaluator and reflect the evaluator's assessment of the capacity of the alleged incapacitated person. See also 20 Pa.C.S. § 5518. After considering additional feedback, the Committee further refined the report and form, which were republished for comment. See 47 Pa.B. 5930 (September 23, 2017).

Rule 14.4 Counsel

This rule was crafted to establish the scope of counsel's services before commencement of the proceedings in order to avoid confusion about the role of counsel. While the rule requires private counsel to set forth information regarding fees in the engagement letter, the reasonableness of all fees incurred on behalf of the alleged incapacitated person, whether attributed to private counsel or appointed counsel, are subject to court review.

Paragraph (a) incorporates the statutory requirement that the petitioner inform the court seven days prior to the adjudicatory hearing whether the alleged incapacitated person has counsel. See 20 Pa.C.S. § 5511(a). Relatedly, the paragraph contains a requirement that the petitioner notify the court if the alleged incapacitated person requested counsel and one has not yet been retained.

Paragraphs (b)—(d) are intended to memorialize the scope of counsel's services before commencement of the proceedings in order to avoid confusion about the role of counsel. Paragraph (b) also requires private counsel to set forth information regarding fees in the engagement letter.

Rule 14.5 Waiver or Modification of Bond

This rule is not intended to encourage waiver or modification of bonds. Rather, it is intended to establish a procedure and standard for waiver and modification. Paragraph (b) permits the waiver or modification for good cause. Examples of "good cause" are contained in the Explanatory Comment. Paragraph (c) requires the court to consider the necessity and means of how "good cause" can be demonstrated in the future to provide assurance that "good cause" continues to exist.

Rule 14.6 Determination of Incapacity and Selection of Guardian

In paragraph (b), the Committee opted to incorporate by reference the statutory procedures for determining incapacity and appointing a guardian. Within 20 Pa.C.S. § 5511 there are other provisions that also could be replicated within the rules, such as closed hearings, jury trial, and the authority of the court to order an independent evaluation. Likewise, 20 Pa.C.S. § 5512.1 sets forth required findings to be made by the court regarding incapacity and the need for a guardianship. Yet, the Committee believed that the rules and Chapter 55 of Title 20 should be read *in pari materia* with each supplementing the other as to procedure. The Note to paragraph (a) contains reference to *In re Peery*, 727 A.2d 539 (Pa. 1999), as a reminder that a guardian is not required if the person, albeit lacking capacity, does not need guardianship services.

Rule 14.7 Order and Certificate

Rule 14.7 was created to set forth topics that all orders must address, see paragraph (a)(1), and language that all orders must contain, see paragraph (a)(2); 20 Pa.C.S. § 5512.1(h) ("At the conclusion of a proceeding in which the person has been adjudicated incapacitated, the court shall assure that the person is informed of his right to appeal and to petition to modify or terminate the guardianship."). Regarding guardianships of the estate, paragraph (b)(1) requires orders to address bonding requirements and the authority of the guardian to spend principal without prior court approval. Paragraph (b)(2) requires all orders for guardian of the estate to contain language substantially in the form provided. The model language in paragraph (b)(2) is intended to address a recurring issue with financial institutions not readily

permitting a guardian to have access to the incapacitated person's accounts or allowing the estate guardian to conduct transactions on behalf of the incapacitated person. Given that a financial institution may have branches in multiple counties, the Committee believed that similar model language should be used in every order to provide for consistent recognition and uniform effect.

Rule 14.8 Guardianship Reporting, Monitoring, Review, and Compliance

The requirement and timing of guardian reports and inventory required by statutes are reflected in Rule 14.8(a). See 20 Pa.C.S. §§ 5142, 5521(b), (c), 5921(f)(2). The forms to be used for reporting and inventory are set forth in the Appendix. Paragraph (a)(4) requires the filing of a final report when an order of limited duration has expired, which is intended to capture guardianships of finite duration pursuant to 20 Pa.C.S. § 5512.1(a)(5) (requiring the court to specify duration of guardianship), rather than emergency guardianships that terminate as a matter of statute pursuant to 20 Pa.C.S. § 5513.

When a guardian has filed a reporting form or inventory form with the clerk, Rule 14.8(b) requires the guardian to serve notice of the filing on all persons entitled to receive such notice, as identified in the court's order. The notice of filing (Form G-07) instructs the recipient that a copy of the notice along with proper identification will be required to access and view the filed documents.

The Committee considered a request to include a reference to the "Guardianship Tracking System" (GTS) in Rule 14.8. The GTS is an online system being developed by the Administrative Office of Pennsylvania Courts that will provide the means for guardians to file reports and update information online as opposed to the current paper process. The GTS is intended to standardize reporting, prevent mistakes, and ensure complete reports. It will store and carryover information from year-to-year, which is intended to facilitate the filing of subsequent reports. Further, the GTS can track information and flag accounts when inputted data falls outside of established parameters, which is intended to enhance guardianship monitoring. After the GTS is implemented on a statewide basis, then the rules will be amended to reflect to the availability of the system.

Rule 14.9 Review Hearing

Rule 14.9 permits the court to order a review hearing *sua sponte* or upon petition. When a review request is initiated by petition, the petitioner must comply with the requirements of paragraphs (b) and (c) relating to petition contents and service. Notice of the hearing, whether ordered *sua sponte* or prompted by petition, should be served on those who are or would be entitled to service of the guardianship petition.

Rule 14.10 Proceedings Relating to Real Property

Rule 14.10(a) is virtually identical to previous Pa. O.C. Rule 14.4. "Real estate" was replaced with "real property" to make the Rule consistent with Rules 5.10—5.12. Given the uniqueness, irreplaceability, and reliance that may be placed upon a sale, exchange, lease, or option of same, as well as a mortgage, of real property, paragraph (b) provides the means of bringing potential objections to the court's attention at the time of the petition.

Rule 14.11 Transfer of Guardianship of the Person to Another State

In 2012, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, 20 Pa.C.S. §§ 5901—

5992, was enacted to govern the interstate judicial coordination of guardianships. Within the Act, Subchapter C provides for the transfer of guardianships from and to Pennsylvania. Rule 14.11 is intended to establish procedural rules implementing 20 Pa.C.S. § 5921 as it relates to guardianships of the person. Rule 14.12 is intended to establish similar rules for guardianships of the estate.

As indicated in the Explanatory Comment, a petition under Rule 14.11 relating to the guardianship of the person may also include a transfer request as provided in Rule 14.12 relating to the guardianship of the estate. This ability to present both matters in one petition was intended to eliminate the need to file multiple petitions. However, this ability will not relieve the petitioner of pleading all the necessary facts required of each specific petition.

Paragraph (a)(4) contains "likely" with the intention that likelihood may be established by evidence of the other state having procedures similar to Rule 14.13 (Acceptance of a Guardianship Transferred from Another State). Per the National Conference of Commissioners on Uniform State Laws' website, as of May 24, 2018, Florida, Texas, Michigan, and Kansas were the only states that had not enacted legislation based upon the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Rule 14.12 Transfer of Guardianship of the Estate to Another State

See the Committee's remarks regarding Rule 14.11.

Rule 14.13 Acceptance of a Guardianship Transferred from Another State

Rule 14.13 is intended to provide a procedure for the transfer of a guardianship from another state to Pennsylvania. This rule is intended to implement 20 Pa.C.S. § 5922. Paragraph (a)(3) was added to require the petition and order determining the initial incapacity be attached. The Committee believed this was important information for the receiving court to possess. Further, this information might be helpful in determining whether a modification hearing may be necessary. Consistent with the reporting requirements applicable to guardianships commenced within Pennsylvania, a guardian of the transferred estate would be required to file an inventory within 90 days of the final order.

Rule 14.14 Forms

There are nine statewide forms associated with this Chapter, two of which (OC-03 and OC-04) are also associated with Pa. O.C. Rule 2.4 in Chapter II. Rule 14.14(f) and (g) are intended to incorporate those forms by reference. Likewise, Forms OC-03 and OC-04 are not replicated within the Appendix to Chapter XIV; rather, they are incorporated by reference. Those forms (OC-03 and OC-04), revised and re-promulgated on September 1, 2016, are not being revised, rescinded, or replaced by this recommendation.

The Citation with Notice form is largely the same content as the current form with now 14-point font to address the requirement of "large type." See 20 Pa.C.S. § 5511(a). As with all forms, the "footer date" on the form will reflect the effective date as established by Supreme Court order.

The Report of Guardian of the Estate (G-02), the Report of Guardian of the Person (G-03), and the Guardian's Inventory for an Incapacitated Person (G-05) forms were

previously published for comment at 45 Pa.B. 1070 (March 7, 2015). The forms were republished at 46 Pa.B. 7934 (December 17, 2016).

Presently, the “inventory form” is a dual use form—it is used for guardianships of incapacitated persons and for guardianships of minors, 20 Pa.C.S. § 5142 (requiring filing of an inventory for minors). The new “inventory form” was designed specifically for guardianships of incapacitated persons under Chapter 55 and the Guardianship Tracking System. To accommodate the continued use an “inventory form” for guardianships of minors under Chapter 51, current Form G-04 is retitled and revised to remove mention of incapacitated persons. Form G-05 will be the new “inventory form” for incapacitated persons.

The Notice of Filing (G-06) was published for comment at 45 Pa.B. 1070 (March 7, 2015) and 46 Pa.B. 7934 (December 17, 2016). The most significant change to the form, aside from formatting, was this re-designation from a “certificate of filing” to a “notice of filing” to make it consistent with the existing Pennsylvania Orphans’ Court Rules.

The Expert Report (G-07) was republished for comment. See 47 Pa.B. 5930 (September 23, 2017).

These forms will be posted permanently on the UJS website with the other orphans’ court forms. See <http://www.pacourts.us/forms-for-the-public/orphans-court-forms>. The index to the appendix containing the forms is amended to reflect the new forms.

Effective Dates

There are two effective dates for these amendments with each having a different critical path. The GTS will rely upon data required by the reporting forms (Report of Guardian of the Estate (G-02), Report of Guardian of the Person (G-03), and the Guardian’s Inventory for an Incapacitated Person (G-05)) being entered by users. To facilitate implementation of the GTS, the reporting forms are effective July 1, 2018. Additionally, the Guardian’s Inventory for a Minor (G-04) is amended to remove reference to “incapacitated person.” This amendment is also effective July 1, 2018.

The second effective date is the implementation of the rules and remaining forms (Citation with Notice (G-01), Notice of Filing (G-06), and Expert Report (G-07)), which have a longer critical pathway based largely on the submission and review of local rules. Accordingly, the effective date for the Rules and remaining forms is June 1, 2019.

[Pa.B. Doc. No. 18-914. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS’ COURT RULES

[231 PA. CODE PART II]

Proposed Amendment of Pa. O.C. Rules 1.7, 2.5, 2.7, 3.7, 5.1 and 10.5

The Orphans’ Court Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa. O.C. Rules 1.7, 2.5, 2.7, 3.7, 5.1 and 10.5 for the reasons set forth in the accompanying

explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court. Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

Orphans’ Court Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
FAX: 717-231-9526
orphanscourtproceduralrules@pacourts.us

All communications in reference to the proposal should be received by July 16, 2018. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Orphans’ Court
Procedural Rules Committee*

WAYNE M. PECHT, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS’ COURT RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.7. Entry and Withdrawal of Counsel.

* * * * *

Explanatory Comment: Admission *pro hac vice* in accordance with Pennsylvania Bar Admission Rule 301 shall proceed by request, the disposition and content of which shall conform to the requirements of Pennsylvania Rule of Civil Procedure No. 1012.1.

This rule does not address the procedure for withdrawal of counsel who has entered an appearance before the Register. Withdrawal of counsel before the Register shall be in accordance with local rule or at the discretion of the Register.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.5. Notice of Account Filing.

(a) No Account shall be confirmed or statement of proposed distribution approved unless the accountant has given written notice of the filing of the Account as provided in subparagraph (d) of this Rule to the following, as applicable:

(1) every unpaid claimant who has given written notice of his or her claim to the accountant or who has performed any action that is the equivalent of giving written notice as provided in 20 Pa.C.S. §§ 3384 or 7755;

(2) any other individual or entity with an asserted claim known to the accountant that is not shown in either

the Account or the petition for adjudication/statement of proposed distribution as being either paid in full or to be paid in full;

(3) any other individual or entity known to the accountant to have or claim an interest in the estate or trust as a beneficiary, heir, or next of kin, except for those legatees or claimants whose legacies or claims have been satisfied in full as reflected in the Account or will be satisfied in full as proposed in the petition for adjudication/statement of proposed distribution; [and]

(4) [For] for an Account where a charitable interest is involved, refer to Rule 4.4[.]; and

(5) to each co-fiduciary who does not join in the statement of Account.

(b) Notice to an individual or entity shall be given in accordance with Rule 4.2; provided, however, that if the individual or entity is represented by counsel who has entered his or her appearance in accordance with Rule 1.7(a), notice shall be given to counsel and the individual or entity.

(c) If the proposed distribution is to an estate [or trust] **having a charitable interest or to a trust**, and a charity is a “qualified beneficiary,” as defined in 20 Pa.C.S. § 7703, of that [recipient estate or] trust, then notice shall be given to the Attorney General on behalf of the charitable beneficiary. If the proposed distribution is to an estate or trust and any one of the accountants stating the Account is a personal representative or a trustee of the recipient estate or trust, then notice shall also be given to the beneficiaries of the estate or trust, to the extent known.

(d) Written notice, as provided in subparagraph (a) of this Rule, shall be mailed at least 20 days prior to the audit in those counties having a separate Orphans’ Court Division or 20 days prior to the date by which objections must be filed in all other counties, and the written notice shall state the date of the audit or the date by which objections must be filed, and the time and place of the audit, if one is to be held, to the extent then known. **A party residing outside of the United States shall have 60 days, rather than 20 days, within which to file an objection.** If an audit is to be held and the date, time, and place of the audit is not known at the time the notice is mailed, the notice shall state that the date, time, and place of the audit will be provided upon request. A copy of the Account, petition for adjudication/statement of proposed distribution, and any legal paper filed therewith shall be sent with the notice, unless the recipient of the notice is a trust beneficiary who is not a “qualified beneficiary” as defined in 20 Pa.C.S. § 7703, or unless the court orders otherwise in a particular matter.

* * * * *

Explanatory Comment: Pursuant to the cross-references to 20 Pa.C.S. §§ 3384 and 7755, notice of the claim given to accountant’s counsel of record is notice to the accountant. See 20 Pa.C.S. § 3384(b)(4). If the court is inclined not to agree with accountant’s position, interpretation or proposed disbursements and distribution, best practice would be for the court to direct the accountant to notify the interested parties of the court’s position and what additional action must be taken by any interested party who objects to the court’s position.

It is permissible for a party to waive the written notice required by this Rule.

Rule 2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.

(a) Objections to an Account and/or a petition for adjudication/statement of proposed distribution shall be filed with the clerk on or before the time and date of the audit in those counties holding an audit, and by a specified date in all other counties, with a copy [sent by first-class United States mail, postage prepaid, to the accountant or the accountant’s counsel, if represented, and to each interested party and claimant who received the notice pursuant to Rule 2.5, to the extent known] served pursuant to Rule 4.3.

* * * * *

CHAPTER III. PETITION PRACTICE AND PLEADING

Part B. Responsive Pleadings

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

* * * * *

(b) A copy of the responsive pleading shall be [sent to the petitioner or his or her counsel, if represented, and all interested parties identified in the petition or counsel representing an interested party if so identified in the petition or in a subsequent pleading] served pursuant to Rule 4.3. [A certificate of service, listing the names and addresses of those individuals and entities receiving a copy of the responsive pleading shall be appended to, or filed contemporaneously with, the responsive pleading.]

* * * * *

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.1. Declaratory Judgment.

(a) *Commencement of Action.* An action for declaratory judgment shall be commenced by petition [and citation] pursuant to Rule 3.5 directed to the interested parties.

* * * * *

Note: Rule 5.1 has no counterpart in former Orphans’ Court Rules, but is based upon Philadelphia Local Rule 1.2.P.

Explanatory Comment: See Rule 3.5(a) for the necessity of using a citation.

CHAPTER X. REGISTER OF WILLS

Rule 10.5. Notice to Beneficiaries and Intestate Heirs.

(a) Within three (3) months after the grant of letters, the personal representative to whom original letters have been granted or the personal representative’s counsel shall send a written notice of estate administration in the form approved by the Supreme Court to:

(1) every person, corporation, association, entity or other party named in decedent’s will as [an outright] a beneficiary whether individually or as a class member;

* * * * *

PUBLICATION REPORT

Proposed Amendment of Pa. O.C. Rules 1.7, 2.5, 2.7, 3.7, 5.1 and 10.5

The Orphans' Court Procedural Rules Committee ("Committee") is planning to propose to the Supreme Court of Pennsylvania the amendment of Pa. O.C. Rules 1.7, 2.5, 2.7, 3.7, 5.1 and 10.5. These amendments will provide minor refinements to the Orphans' Court Rules that were adopted by the Court on December 1, 2015 and took effect on September 1, 2016.

Rule 1.7 provides for the entry of appearance and withdrawal of counsel. It was observed that Rule 1.7(a) addresses entry of appearance before the court and the Register, while Rule 1.7(b) only addresses withdrawal of counsel before the court and is silent on the requirements for withdrawal of counsel before the Register. The Committee recommends adding an Explanatory Comment to Rule 1.7 to clarify that the Rule does not address procedures for withdrawal of counsel before the Register, and that withdrawal of counsel before the Register shall be in accordance with local rule or at the discretion of the Register.

Rule 2.5 addresses notice of the filing of the Account. First, the Committee recommends adding a provision to Rule 2.5(a) to establish that notice of the filing of the Account should also be provided to each co-fiduciary who does not join in the statement of Account. The Committee also recommends amending Rule 2.5(c) to clarify that the reference to a "qualified beneficiary" in that Rule only applies to a distribution made to a trust. The phrase "having a charitable interest" is also added to Rule 2.5(c) to more accurately describe an estate under this Rule. The Committee recommends amending Rule 2.5(d) to provide that a party residing outside the United States has 60 days, rather than 20 days, in which to file an objection. The Committee also recommends clarifying the "time and place" of the audit in Rule 2.5(d) by adding the word "date" to that phrase. Finally, the Committee recommends amending the Explanatory Comment to Rule 2.5 to explain that it is permissible for a party to waive the written notice required by the Rule.

Rules 2.7 and 3.7 address the filing of objections, petitions and responsive pleadings. The Committee recommends amending Rules 2.7(a) and 3.7(b) to cross-reference the service requirements set forth in Rule 4.3.

Rule 5.1 addresses declaratory judgment actions. The Committee recommends amending Rule 5.1(a) and the Explanatory Comment to cross-reference Rule 3.5 regarding the use of citations when commencing a declaratory judgment action.

Finally, the Committee recommends amending Rule 10.5(a)(1) to eliminate the term "outright beneficiary." "Outright beneficiary" is neither a defined term nor a term of art, and the Committee agrees that the reference in Rule 10.5(a)(1) should simply be to a "beneficiary."

The Committee invites all comments, concerns, and suggestions regarding this proposal.

[Pa.B. Doc. No. 18-915. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE**PART II. ORPHANS' COURT RULES****[231 PA. CODE PART II]****Order Amending Rules 1.99, 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4 and 8.2 of the Orphans' Court Rules; No. 772 Supreme Court Rules Doc.****Order***Per Curiam*

And Now, this 1st day of June, 2018, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1.99, 2.1, 2.4, 2.7, 2.8, 2.10, 3.3—3.6, 3.9—3.11, 3.14, 7.2—7.4, and 8.2 of the Pennsylvania Orphans' Court Rules are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

Annex A**TITLE 231. RULES OF CIVIL PROCEDURE****PART II. ORPHANS' COURT RULES****CHAPTER I. PRELIMINARY RULES****Rule 1.99. Confidential Information and Confidential Documents. Certification.**

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a legal paper pursuant to these rules with the clerk shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form, in accordance with the Policy.

Note: Applicable authority includes but is not limited to statute, procedural rule, or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides

for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.1. Form of Account.

* * * * *

Note: Rule 2.1 is substantively similar to former Rule 6.1 and Rule 12.15, except that certain subparagraphs have been reordered and Rule 12.15 and its Official Note have become subparagraph (d).

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

* * * * *

Rule 2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation.

* * * * *

Note: Although substantially modified, Rule 2.4 is derived from former Rule 6.9. One modification is to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another substantial modification is the addition of subparagraph (e) that requires counsel to sign the petition for adjudication/statement of distribution attesting that the submitted petition for adjudication/statement of distribution accurately replicates the Model Form and subjects counsel to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

* * * * *

Rule 2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution.

* * * * *

Note: Although substantially modified, Rule 2.7 is derived from former Rule 6.10.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

* * * * *

Rule 2.8. Pleadings Allowed After Objections are Filed

* * * * *

Note: Rule 2.8 has no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

* * * * *

Rule 2.10. Foreign Heirs and Unknown Distributees.

* * * * *

Note: With only minor modifications, Rule 2.10 is substantively similar to former Rules 13.2 and 13.3. Former Rule 13.1 has been deleted.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

CHAPTER III. PETITION PRACTICE AND PLEADING

Part A. Petition Practice

Rule 3.3. Contents of All Pleadings; General and Specific Averments.

* * * * *

Note: Rule 3.3 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 206.1(c) and Pa.R.C.P. No. 1019.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

Rule 3.4. Form of Petition; Exhibits; Consents; Signing and Verification.

* * * * *

Note: Rule 3.4 is based upon former Rule 3.3 and Rule 3.4, but has been modified to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another modification is the addition of subparagraph (d) that requires petitioner's counsel to sign the petition, or all of the petitioners to sign the petition, if unrepresented, thereby subjecting these signatories to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

Rule 3.5. Mode of Proceeding on Petition.

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Note: Subparagraphs (a) and (b) of Rule 3.5 are derived from former Rule 3.5. The final sentence of subparagraph (a)(2) is identical to former Rule 3.7(h)(1); it merely has been relocated to this section. Subparagraphs (c) and (d) of this Rule have no counterpart in former Orphans' Court Rules.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: *Case Records of the Appellate and Trial Courts*]. See Rule 1.99.

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Part B. Responsive Pleadings

Rule 3.6. Pleadings Allowed After Petition.

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Note: Rule 3.6 has no counterpart in former Orphans' Court Rules, but is based, in part, on Pa.R.C.P. No. 1017.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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Rule 3.9. Preliminary Objections.

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Note: Rule 3.9 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1028.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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Rule 3.10. Denials; Effect of Failure to Deny.

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Note: Rule 3.10 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1029.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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Rule 3.11. Answer with New Matter.

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Note: Rule 3.11 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1030.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

Part C. Pleadings in General

Rule 3.14. Amendment.

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Note: Rule 3.14 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1033.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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

Rule 7.2. Motion for Judgment on the Pleadings.

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Note: Rule 7.2 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1034.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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Rule 7.3. Motion for Summary Judgment.

* * * * *

Note: Rule 7.3 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1035.1 *et seq.*

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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Rule 7.4. Injunctions.

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Note: Rule 7.4 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1531.

The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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CHAPTER VIII. RECONSIDERATION

Rule 8.2. Motions for Reconsideration.

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Note: The filings required by this rule are subject to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*: **Case Records of the Appellate and Trial Courts**]. See Rule 1.99.

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[Pa.B. Doc. No. 18-916. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 2, 4 AND 5]

Order Amending Rules 113.1, 206, 403, 504, 560 and 575 and Revising the Comments to Rules 420, 513 and 578 of the Rules of Criminal Procedure; No. 504 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Pennsylvania Rules of Criminal Procedure 113.1, 206, 403, 504, 560, and 575 are adopted, and the revisions to the Comments to Pennsylvania Rules of Criminal Procedure 420, 513, and 578 are approved, in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2018.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION
AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 113.1. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, or any affiant who files a document pursuant to these rules with the [**clerk of court's**] **issuing authority or clerk of courts'** office shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy). In accordance with the Policy, the filing shall include a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form. [**Nothing in this rule applies to any document filed with a magisterial district judge.**]

Comment

"Applicable authority," as used in this rule, includes but is not limited to statute, procedural rule, or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] (Policy) can be found on the website of the Supreme Court of Pennsylvania at: <http://www.pacourts.us/public-records>. The Policy is applicable to all filings by the parties or an affiant in any criminal court case.

Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* [: *Case Records of the Appellate and Trial Courts*] that require filing confidential information and documents differently than non-confidential information and documents.

Filings may require further precautions, such as placing certain types of information in a "Confidential Information Form." The Confidential Information Form and the Confidential Document Form can be found at: <http://www.pacourts.us/public-records/public-records-forms>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a "Redacted Version" and an "Unredacted Version."

In addition to the restrictions above, a filing party should be cognizant of the potential impact that inclusion of personal information may have on an individual's privacy rights and security. Therefore, inclusion of such information should be done only when necessary or required to effectuate the purpose of the filing. Consideration of the use of sealing or protective orders also should be given if inclusion of such information is necessary.

While the **Public Access** Policy is not applicable to orders or other documents filed by a court, judges should give consideration to the privacy interests addressed by the Policy when drafting an order that might include information considered confidential under the Policy.

Official Note: New Rule 113.1 adopted January 5, 2018, effective January 6, 2018; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 48 Pa.B. 487 (January 20, 2018).

Amendments regarding the changes to the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 206. Contents of Application for Search Warrant.

Each application for a search warrant shall be supported by written affidavit(s) signed and sworn to or affirmed before an issuing authority, which affidavit(s) shall:

* * * * *

(7) if a "nighttime" search is requested (*i.e.*, 10 p.m. to 6 a.m.), state additional reasonable cause for seeking permission to search in nighttime; [**and**]

(8) when the attorney for the Commonwealth is requesting that the affidavit(s) be sealed pursuant to Rule 211, state the facts and circumstances which are alleged to establish good cause for the sealing of the affidavit(s) [.]; **and**

(9) a certification that the application complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania regarding confidential information and documents.

Comment

For the contents of the search warrant, see Rule 205.

While this rule continues to require written affidavits, the form of affidavit was deleted in 1984 because it is no longer necessary to control the specific form of written affidavit by rule.

The 2005 amendments to paragraph (6) recognize anticipatory search warrants. To satisfy the requirements of paragraph (6) when the warrant being requested is for a prospective event, the application for the search warrant also must include a statement explaining how the affiant knows that the items to be seized on a later occasion will be at the place specified. *See Commonwealth v. Coleman*, [**574 Pa. 261**,] 830 A.2d 554 (Pa. 2003), and *Commonwealth v. Glass*, [**562 Pa. 187**,] 754 A.2d 655 (Pa. 2000).

When the attorney for the Commonwealth is requesting that the search warrant affidavit(s) be sealed, the affidavit(s) in support of the search warrant must set forth the facts and circumstances the attorney for the Commonwealth alleges establish that there is good cause to seal the affidavit(s). *See also* Rule 211(B)(2). Pursuant to Rule 211(B)(1), when the attorney for the Commonwealth requests that the search warrant affidavit be sealed, the application for the search warrant must be made to a judge of the court of common pleas or to an appellate court justice or judge, who would be the issuing authority for purposes of this rule. For the procedures for sealing search warrant affidavit(s), see Rule 211.

See Rule 113.1 regarding the Case Records Public Access Policy of the Unified Judicial System of

Pennsylvania and the requirements regarding filings and documents that contain confidential information.

Official Note: Previous Rule 2006 adopted October 17, 1973, effective 60 days hence; rescinded November 9, 1984, effective January 2, 1985. Present Rule 2006 adopted November 9, 1984, effective January 2, 1985; amended September 3, 1993, effective January 1, 1994; renumbered Rule 206 and amended March 1, 2000, effective April 1, 2001; amended October 19, 2005, effective February 1, 2006; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published at 21 Pa.B. 3681 (August 17, 1991).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the October 19, 2005 amendments to paragraph (6) and the Comment published with the Court's Order at 35 Pa.B. 6087 (November 5, 2005).

Amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART B. Citation Procedures

Rule 403. Contents of Citation.

(A) Every citation shall contain:

* * * * *

(9) a verification by the law enforcement officer that the facts set forth in the citation are true and correct to the officer's personal knowledge, or information and belief, and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities[.]; **and**

(10) a certification that the citation complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania regarding confidential information and documents.

(B) The copy delivered to the defendant shall also contain a notice to the defendant:

* * * * *

Comment

A law enforcement officer may prepare, verify, and transmit a citation electronically. The law enforcement officer contemporaneously must give the defendant a paper copy of the citation containing all the information required by this rule. Nothing in this rule is intended to require the defendant to sign the citation.

See Rule 113.1 regarding the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and the requirements regarding filings and documents that contain confidential information.

Paragraph (A)(3) requires the law enforcement officer who issues a citation to indicate on the citation if the defendant is a juvenile and, if so, whether the juvenile's parents were notified. See the Judicial Code, 42 Pa.C.S.

§ 1522, concerning parental notification in certain summary cases involving juveniles.

* * * * *

Official Note: Previous rule, originally numbered Rule 133(a) and Rule 133(b), adopted January 31, 1970, effective May 1, 1970; renumbered Rule 53(a) and 53(b) September 18, 1973, effective January 1, 1974; amended January 23, 1975, effective September 1, 1975; Comment revised January 28, 1983, effective July 1, 1983; rescinded July 12, 1985, effective January 1, 1986, and not replaced in these rules. Present Rule 53 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; amended February 1, 1989, effective as to cases instituted on or after July 1, 1989; amended January 31, 1991, effective July 1, 1991; amended June 3, 1993, effective as to new citations printed on or after July 1, 1994; amended July 25, 1994, effective January 1, 1995; renumbered Rule 403 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2000, effective July 1, 2000; Comment revised February 6, 2003, effective July 1, 2003; amended August 7, 2003, effective July 1, 2004; amended January 26, 2007, effective February 1, 2008; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the January 26, 2007 amendments to paragraph (B)(2)(b)(ii) and revisions to the Comment published with the Court's Order at 37 Pa.B. 752 (February 17, 2007).

Amendments regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

PART C. Procedures in Summary Cases When Complaint Filed

Rule 420. Filing of Complaint.

When the affiant is not a law enforcement officer, the affiant shall institute a criminal proceeding in a summary case by filing a complaint with the proper issuing authority.

Comment

With regard to the "proper" issuing authority as used in these rules, see Rule 130.

Complaints filed pursuant to this rule are public records. However, in addition to restrictions placed by law and rule on the disclosure of confidential information, the filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and may require further precautions, such as placing certain types of information in a "Confidential Information Form" or providing both a redacted and unredacted version of the filing. See Rule 113.1.

Official Note: Previous Rule 65 adopted September 18, 1973, effective January 1, 1974; rescinded July 12, 1985, effective January 1, 1986, and replaced by present Rules 409(B), 414(B), 424, 430(D), 431, and 456. Present Rule 65, adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; renumbered Rule 420 and Comment revised March 1, 2000, effective April 1, 2001; **Comment revised June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 1, 2000).

Amendments regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). Complaint Procedures

Rule 504. Contents of Complaint.

Every complaint shall contain:

* * * * *

(11) a verification by the affiant that the facts set forth in the complaint are true and correct to the affiant's personal knowledge, or information and belief, and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; [and]

(12) a certification that the complaint complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania regarding confidential information and documents; and

[(12)] (13) the signature of the affiant and the date of the execution of the complaint.

Comment

This rule sets forth the required contents of all complaints whether the affiant is a law enforcement officer, a police officer, or a private citizen. When the affiant is a private citizen, the complaint must be submitted to an attorney for the Commonwealth for approval. See Rule 506. When the district attorney elects to proceed under Rule 507 (Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option), the police officer must likewise submit the complaint for approval by an attorney for the Commonwealth.

Ordinarily, whenever a misdemeanor, felony, or murder is charged, any summary offense in such a case, if known at the time, should be charged in the same complaint, and the case should proceed as a court case under Chapter 5 Part B. See *Commonwealth v. Cauffman*, [541 Pa. 299,] 662 A.2d 1050 (Pa. 1995) and *Commonwealth v. Campana*, [455 Pa. 622,] 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, [454 Pa. 233,] 314 A.2d 854 (Pa. 1974) (compulsory joinder rule). In judicial districts in which there is a traffic court established pursuant to 42 Pa.C.S. §§ 1301—1342, when a summary motor vehicle offense within the jurisdiction of the traffic court arises in the same criminal episode as another summary offense or a misdemeanor, felony, or murder offense, see 42 Pa.C.S. § 1302 and *Commonwealth v. Masterson*, [275 Pa.Super. 166,] 418 A.2d 664 (Pa. Super. 1980).

Paragraph (8) requires the affiant who prepares the complaint to indicate on the complaint whether criminal laboratory services are requested in the case. This information is necessary to alert the magisterial district judge, the district attorney, and the court that the defendant in the case may be liable for a criminal laboratory user fee. See 42 Pa.C.S. § 1725.3 that requires a defendant to be

sentenced to pay a criminal laboratory user fee in certain specified cases when laboratory services are required to prosecute the case.

The requirement that the affiant who prepares the complaint indicate whether the defendant has been fingerprinted as required by the Criminal History Record Information Act, 18 Pa.C.S. § 9112, is included so that the issuing authority knows whether it is necessary to issue a fingerprint order with the summons as required by Rule 510.

See Rule 113.1 regarding the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and the requirements regarding filings and documents that contain confidential information.

Official Note: Original Rule 104 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 104 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 132 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; amended November 9, 1984, effective January 2, 1985; amended July 25, 1994, effective January 1, 1995; renumbered Rule 104 and Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 504 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised March 9, 2006, effective September 1, 2006; amended July 10, 2008, effective February 1, 2009; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

Report explaining the July 25, 1994 amendment published with Court's Order at 24 Pa.B. 4068 (August 13, 1994).

Report explaining the August 9, 1994 Comment revisions published at 22 Pa.B. 6 (January 4, 1992); Final Report published with the Court's Order at 24 Pa.B. 4342 (August 27, 1994).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the March 9, 2006 Comment revision published with the Court's Order at 36 Pa.B. 1385 (March 25, 2006).

Final Report explaining the July 10, 2008 amendments adding new paragraph (9) requiring a notation concerning fingerprinting published with the Court's Order at 38 Pa.B. 3971 (July 26, 2008).

Amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

PART B(3). Arrest Procedures in Court Cases

(a) Arrest Warrants

Rule 513. Requirements for Issuance; Dissemination of Arrest Warrant Information.

* * * * *

Comment

This rule was amended in 2013 to add provisions concerning the delay in inspection and dissemination of arrest warrant information. Paragraph (A) provides a definition of the term "arrest warrant information" that is

used throughout the rule. Paragraph (B) retains the existing requirements for the issuance of arrest warrants. Paragraph (C) establishes the procedures for a temporary delay in the inspection and dissemination of arrest warrant information prior to the execution of the warrant.

ISSUANCE OF ARREST WARRANTS

Paragraph (B)(1) recognizes that an issuing authority either may issue an arrest warrant using advanced communication technology or order that the law enforcement officer appear in person to apply for an arrest warrant.

This rule does not preclude oral testimony before the issuing authority, but it requires that such testimony be reduced to an affidavit prior to issuance of a warrant. All affidavits in support of an application for an arrest warrant must be sworn to before the issuing authority prior to the issuance of the warrant. The language "sworn to before the issuing authority" contemplates, when advanced communication technology is used, that the affiant would not be in the physical presence of the issuing authority. See paragraph (B)(3).

All affidavits and applications filed pursuant to this rule are public records. However, in addition to restrictions placed by law and rule on the disclosure of confidential information, the filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and may require further precautions, such as placing certain types of information in a "Confidential Information Form" or providing both a redacted and unredacted version of the filing. See Rule 113.1.

This rule carries over to the arrest warrant the requirement that the evidence presented to the issuing authority be reduced to writing and sworn to, and that only the writing is subsequently admissible to establish that there was probable cause. In these respects, the procedure is similar to that applicable to search warrants. See Rule 203. For a discussion of the requirement of probable cause for the issuance of an arrest warrant, see *Commonwealth v. Flowers*, 369 A.2d 362 (Pa. Super. 1976).

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Official Note: Rule 119 adopted April 26, 1979, effective as to arrest warrants issued on or after July 1, 1979; Comment revised August 9, 1994, effective January 1, 1995; renumbered Rule 513 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended December 23, 2013, effective March 1, 2014; amended November 9, 2017, effective January 1, 2018; **Comment revised June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the November 9, 2017 amendments regarding electronic technology for swearing affidavits published with the Court's Order at 47 Pa.B. 7177 (November 25, 2017).

Comment revision regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

PART F. Procedures Following a Case Held for Court

Rule 560. Information: Filing, Contents, Function.

* * * * *

(B) The information shall be signed by the attorney for the Commonwealth and shall be valid and sufficient in law if it contains:

* * * * *

(7) a certification that the information complies with the provisions of the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] Case Records Public Access Policy of the Unified Judicial System of Pennsylvania regarding confidential information and documents.

* * * * *

Comment

* * * * *

See Rule 113.1 regarding the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] Case Records Public Access Policy of the Unified Judicial System of Pennsylvania and the requirements regarding filings and documents that contain confidential information.

* * * * *

Official Note: Rule 225 adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; renumbered Rule 560 and amended March 1, 2000, effective April 1, 2001; Comment revised April 23, 2004, effective immediately; Comment revised August 24, 2004, effective August 1, 2005; Comment revised March 9, 2006, effective September 1, 2006; amended June 21, 2012, effective in 180 days; amended January 5, 2018, effective January 6, 2018; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the January 5, 2018 amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 487 (January 20, 2018).

Amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

PART G(1). Motion Procedures

Rule 575. Motions and Answers.

(A) MOTIONS

(1) All motions shall be in writing, except as permitted by the court or when made in open court during a trial or hearing.

(2) A written motion shall comply with the following requirements:

(a) The motion shall be signed by the person or attorney making the motion. The signature of an attorney shall constitute a certification that the attorney has read the motion, that to the best of the attorney's knowledge, information, and belief there is good ground to support the motion, and that it is not interposed for delay. The motion also shall contain a certification that the motion

complies with the provisions of the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* regarding confidential information and documents.

* * * * *

(B) ANSWERS

(1) Except as provided in Rule 906 (Answer to Petition for Post-Conviction Collateral Relief), an answer to a motion is not required unless the judge orders an answer in a specific case as provided in Rule 577. Failure to answer shall not constitute an admission of the facts alleged in the motion.

(2) A party may file a written answer, or, if a hearing or argument is scheduled, may respond orally at that time, even though an answer is not required.

(3) A written answer shall comply with the following requirements:

(a) The answer shall be signed by the person or attorney making the answer. The signature of an attorney shall constitute a certification that the attorney has read the answer, that to the best of the attorney's knowledge, information, and belief there is good ground to support the answer, and that it is not interposed for delay. The answer also shall contain a certification that the answer complies with the provisions of the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* regarding confidential information and documents.

* * * * *

Comment

* * * * *

See Rule 113.1 regarding the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* and the requirements regarding filings and documents that contain confidential information.

* * * * *

Official Note: Former Rule 9020 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 574 and amended March 1, 2000, effective April 1, 2001; rescinded March 3, 2004, effective July 1, 2004. Former Rule 9021 adopted October 21, 1983, effective January 1, 1984; renumbered Rule 575 and amended March 1, 2000, effective April 1, 2001; Rules 574 and 575 combined as Rule 575 and amended March 3, 2004, effective July 1, 2004; amended July 7, 2006, effective February 1, 2007; amended January 5, 2018, effective January 6, 2018; **amended June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the January 5, 2018 amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 487 (January 20, 2018).

Amendment regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

Rule 578. Omnibus Pretrial Motion for Relief.

Unless otherwise required in the interests of justice, all pretrial requests for relief shall be included in one omnibus motion.

Comment

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See Pa.R.E. 702 and 703 regarding the admissibility of scientific or expert testimony. [**Pa.R.E.**] **Pa.R.E.** 702 codifies Pennsylvania's adherence to the test to determine the admissibility of expert evidence first established in *Frye v. United States*, 293 F.1013 (D.C. Cir. 1923) and adopted by the Pennsylvania Supreme Court in *Commonwealth v. Topa*, 369 A.2d 1277 (Pa. 1977). Given the potential complexity when the admissibility of such evidence is challenged, such challenges should be raised in advance of trial as part of the omnibus pretrial motion if possible. However, nothing in this rule precludes such challenges from being raised in a motion *in limine* when circumstances necessitate it.

All motions filed pursuant to this rule are public records. However, in addition to restrictions placed by law and rule on the disclosure of confidential information, the motions are subject to the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* and may require further precautions, such as placing certain types of information in a "Confidential Information Form" or providing both a redacted and unredacted version of the filing. See Rule 113.1.

See Rule 113.1 regarding the [*Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts*] *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* and the requirements regarding filings and documents that contain confidential information.

See Rule 556.4 for challenges to the array of an indicting grand jury and for motions to dismiss an information filed after a grand jury indicts a defendant.

Official Note: Formerly Rule 304, adopted June 30, 1964, effective January 1, 1965; amended and renumbered Rule 306 June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended October 21, 1983, effective January 1, 1984; Comment revised October 25, 1990, effective January 1, 1991; Comment revised August 12, 1993, effective September 1, 1993; renumbered Rule 578 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised June 21, 2012, effective in 180 days; Comment revised July 31, 2012, effective November 1, 2012; Comment revised September 21, 2017, effective January 1, 2018; Comment revised January 5, 2018, effective January 6, 2018; **Comment revised June 1, 2018, effective July 1, 2018.**

Committee Explanatory Reports:

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Final Report explaining the January 5, 2018 Comment revisions regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 487 (January 20, 2018).

Comment revisions regarding the Court's public access policy published with the Court's Order at 48 Pa.B. 3575 (June 16, 2018).

[Pa.B. Doc. No. 18-917. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200, 300, 500, 800 AND 1200]

Order Adopting New Rule 217 and Amending Rule 803 and the Official Notes to Rules 304, 503 1205 and 1206 of the Rules of Civil Procedure Before Magisterial District Judges; No. 423 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Minor Court Rules Committee, the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 217 is adopted, Rule 803 is amended, and the Official Notes to Rules 304, 503, 1205, and 1206 of the Pennsylvania Rules of Civil Procedure Before Magisterial District Judges are amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b). The amendments to Pa.R.C.P.M.D.J. No. 803 shall be effective on November 1, 2018. All other provisions of this Order shall be effective on July 1, 2018.

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

(Editor's Note: The following rule is added and printed in regular type to enhance readability.)

Rule 217. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a document pursuant to these rules with a magisterial district court shall comply with the requirements of Sections 7.0 and 8.0 of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form in accordance with the Policy.

Official Note: Applicable authority includes but is not limited to statute, procedural rule or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>.

CHAPTER 300. CIVIL ACTION

Rule 304. Form of Complaint.

* * * * *

Official Note: Rule 304 is designed to promote uniformity, simplification of procedure and better access by the public to the judicial services of magisterial district judges. The use of a form will help to accomplish this purpose and will also provide easier statistical and other administrative control by the Supreme Court.

The filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Rule 217.

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 503. Form of Complaint.

* * * * *

Official Note: As in the other rules of civil procedure for magisterial district judges, the complaint will be on a printed form. **The filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Rule 217.** As to notice to remove, the form will simply state that such a notice, when required, was given to the defendant in accordance with law. See § 501 of the Landlord and Tenant Act, 68 P.S. § 250.501 as amended by § 2(a) of the Judiciary Act Repealer Act, Act of April 28, 1978, P.L. 202, No. 53, 42 P.S. § 20002(a). In subdivision C(8) the landlord is permitted to claim, in addition to the specific amount of rent due and unpaid at the date of filing, whatever unspecified amount of rent will remain due and unpaid at the date of the hearing. As to claiming damages for injury to property, compare Pa.R.C.P. No. 1055.

* * * * *

CHAPTER 800. MINORS AND INCAPACITATED PERSONS AS PARTIES

Rule 803. Entitlement of Complaint.

The complaint in an action before a magisterial district judge to which a minor is a party shall be entitled in the name of the minor, without reference to the party's minority or any guardian. **The minor shall be designated by the initials of his or her first and last name.**

Official Note: The complaint will be entitled in the name of the minor, whether plaintiff or defendant. **However, the minor shall be designated by the initials of his or her first and last name.** If a guardian does represent the minor, this will be reflected by a notice of intent to represent attached to the complaint form as required by Rule 805B.

The filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Rule 217.

CHAPTER 1200. ACTIONS FOR EMERGENCY PROTECTIVE RELIEF

Rule 1205. Persons Who May Seek Emergency Relief.

* * * * *

Official Note: This rule is derived from Section 6106 of the Protection From Abuse Act, 23 Pa.C.S. § 6106, as well as 42 Pa.C.S. § 62A05.

The filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Rule 217.

Rule 1206. Commencement of Proceedings.

* * * * *

Official Note: Paragraph B is added to assure compliance with the requirement of Section 6110(d) of the Protection From Abuse Act, 23 Pa.C.S. § 6110(d), as well as 42 Pa.C.S. § 62A09(d). Practice varies among the judicial districts as to what procedures the plaintiff must follow to continue in effect a protection order in the court of common pleas upon the certification of an emergency protection order to the court of common pleas. The hearing officer should provide clear instructions to the plaintiff as to what must be done to continue in effect the protection order in the court of common pleas. See Rule 1210 and Note and Rule 1211 and Note. Paragraph C is derived from Section 6106(b) of the Protection From Abuse Act, 23 Pa.C.S. § 6106(b), as well as 42 Pa.C.S. § 62A05(b) and reflects the practice when a temporary order is issued at the common pleas level.

The filings required by this rule are subject to the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Rule 217.

FINAL REPORT¹

Recommendation 2-2018, Minor Court Rules Committee

Adoption of Pa.R.C.P.M.D.J. No. 217 and Amendment of Pa.R.C.P.M.D.J. No. 803 and the Official Notes to Pa.R.C.P.M.D.J. Nos. 304, 503, 1205, and 1206

On June 1, 2018, the Supreme Court of Pennsylvania adopted amendments to the now-titled *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* ("Policy"). See Order, No. 496 Judicial Administration Docket. The amendments to the Policy, effective on July 1, 2018, extend the Policy to the magisterial district courts, which were previously covered by a standalone public access policy.²

New Pa.R.C.P.M.D.J. No. 217, effective July 1, 2018, identifies the Policy and advises that all filings must comply with the Policy (absent authority to the contrary). Rule 217 specifically identifies Sections 7.0 and 8.0, which address Confidential Information and Documents. New Rule 217 also references the certification of compliance that filers must complete.

The Official Notes to Pa.R.C.P.M.D.J. Nos. 304, 503, 1205, and 1206 are amended effective July 1, 2018 to add a cross-reference to new Rule 217. These rules provide for filings that could include Confidential Information or Documents, as defined in Sections 7.0 and 8.0 of the Policy.

Pa.R.C.P.M.D.J. No. 803 is amended effective November 1, 2018 to provide that when a minor is a party in an action only the minor's initials are to be used in the caption of a complaint. Compare Pa.R.C.P. No. 2028.

[Pa.B. Doc. No. 18-918. Filed for public inspection June 15, 2018, 9:00 a.m.]

¹ The Committee's Final Report should not be confused with the Official Notes to the Rules. Also, the Supreme Court of Pennsylvania does not adopt the Committee's Official Notes or the contents of the explanatory Final Reports.

² The *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* was rescinded, effective July 1, 2018. See Order, No. 496 Judicial Administration Docket.

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Rescission of Municipal Court Civil Rule 128, Fees; Administrative Order No. 01 of 2018

Order

And Now, this 31st day of May, 2018, it is hereby *Ordered, Adjudged and Decreed* that Philadelphia Municipal Court Rule 128. Fees is rescinded effective immediately.

By the Court

HONORABLE MARSHA H. NEIFIELD,
President Judge
Philadelphia Municipal Court

[Pa.B. Doc. No. 18-919. Filed for public inspection June 15, 2018, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MIFFLIN COUNTY

Local Rule 601 of Judicial Administration; CP-44-CV-2-2018

Order of Court

And Now, this 1st day of June, 2018, the Court hereby adopts the following new Local Rule of Judicial Administration:

Pursuant to Section 6.00 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts, the fee for photocopying the official case records of the magisterial district courts shall be \$ 0.25 per page and exact postage shall be charged when official case records are requested to be mailed. The fee schedule shall be publicly posted.

By the Court

DAVID W. BARRON,
President Judge

[Pa.B. Doc. No. 18-920. Filed for public inspection June 15, 2018, 9:00 a.m.]

SUPREME COURT

Review and Vacatur of Local Orphans' Court Rules; No. 771 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 1st day of June, 2018, upon the recommendation of the Orphans' Court Procedural Rules Committee:

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

1) The continued necessity of existing local orphans' court rules governing guardianship proceedings as of June 1, 2019 shall be reviewed by the President Judge or

his or her designee in light of the Order of this Court, *see* No. 770 Supreme Court Rules Docket (June 1, 2018), rescinding and replacing Rules 14.1 through 14.5 and forms G-01 through G-04, and amending Rules 1.5 and 5.10 through 5.12, and Index to Appendix of the Pennsylvania Orphans' Court Rules.

2) A local orphans' court rule deemed necessary shall be submitted to the Orphans' Court Procedural Rules Committee no later than December 1, 2018 for review in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d).

3) A local orphans' court rule governing guardianship proceedings not adopted in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103(d) shall be vacated effective June 1, 2019.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective immediately.

(Editor's Note: See 48 Pa.B. 3524 (June 16, 2018) for a related Supreme Court Order.)

[Pa.B. Doc. No. 18-921. Filed for public inspection June 15, 2018, 9:00 a.m.]
