

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Amending Rule 14.8 of the Pennsylvania Rules of Orphans' Court Procedure; No. 948 Supreme Court Rules Docket

Order

Per Curiam

And Now, this 12th day of June, 2023, upon the recommendation of the Orphans' Court Procedural Rules Committee; the proposal having been published for public comment at 52 Pa.B. 5119 (August 20, 2022):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 14.8 of the Pennsylvania Rules of Orphans' Court Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective on April 1, 2024.

Additions to the rules are shown in bold and are underlined.

Deletions from the rules are shown in bold and brackets.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

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.

[Note: See Pa.R.J.A. No. 510 governing the filing of inventories and annual reports online using the Guardianship Tracking System.]

(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)**] **subdivision (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)**] **subdivision (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)**] **subdivision (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.

(4) After reasonable enforcement procedures by the court have been unsuccessful, the court shall enter an order that:

(i) includes an explanation of the actions taken by the court to attempt enforcement of the filing requirements;

(ii) includes clearly enumerated reasons why the guardian or former guardian has not been compelled to comply with any filing requirements; and either

(A) directs that a successor guardian or designee of the court file the delinquent filing with the clerk and it shall be docketed as such by the clerk; or

(B) directs the order issued by the court to be docketed by the clerk in lieu of the delinquent filing.

[Explanatory] Comment:

See Pa.R.J.A. 510 governing the filing of inventories and annual reports online using the Guardianship Tracking System.

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 hear-

ing, or take further action as may be deemed necessary, including, but not limited to, removal of the guardian or contempt proceedings. **If those efforts are unsuccessful, the court shall proceed as set forth in subdivision (f)(4).**

As used in subdivision (f)(4)(ii)(A), a “designee of the court” is an individual who is: (1) knowledgeable about the incapacitated person and the contents of the report; and (2) appointed by the court for the sole purpose of filing the delinquent report that the guardian or successor guardian is unable or unwilling to file. An attorney, accountant, or agent of the guardian or former guardian may have the requisite knowledge to serve in this capacity.

ORPHANS’ COURT PROCEDURAL RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.O.C.P. 14.8

On June 12, 2023, the Supreme Court of Pennsylvania amended Pennsylvania Orphans’ Court Rule of Procedure 14.8 governing guardianship reporting. The Orphans’ Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

Pa.R.O.C.P. 14.8, relating to guardianship reporting, monitoring, review, and compliance, reflects the statutory requirements of 20 Pa.C.S. §§ 5142, 5521, and 5921. These requirements include: (1) the filing of an annual report by the guardian of the estate and the guardian of the person one year after appointment and annually thereafter; and (2) a final report by the guardian of the estate and the guardian of the person following certain events. See 20 Pa.C.S. § 5521(c); Pa.R.O.C.P. 14.8(a).

The clerk of the orphans’ court, or the court’s designee, is required to monitor the guardianship docket to ensure compliance with reporting requirements for annual and final reports. See 20 Pa.C.S. § 5521(c)(1)-(2); Pa.R.O.C.P. 14.8(d). If a report is deficient or not timely filed, the guardian receives notice to comply with the reporting requirements. See Pa.R.O.C.P. 14.8(f)(1). If the guardian continues to fail to comply, a notice of deficiency is transmitted to the judge. See 20 Pa.C.S. § 5521(c)(3); Pa.R.O.C.P. 14.8(f)(2). “The court *may* thereafter take such enforcement procedures as are necessary to ensure compliance.” Pa.R.O.C.P. 14.8(f)(3) (emphasis added), compare 20 Pa.C.S. § 5521(c)(3) (“The court *shall* take appropriate enforcement action against such guardians.”) (emphasis added). Such actions could include, in the court’s discretion, ordering further documentation, conducting a review hearing, removing the guardian, or initiating contempt proceedings. Pa.R.O.C.P. 14.8, cmt.

The Committee received a request relating to delinquent annual or final reports and available compliance measures under Pa.R.O.C.P. 14.8(f). Specifically, it was observed there are situations when enforcement actions are unable to compel a guardian responsible for filing a report to comply with that requirement or enforcement actions are unsuccessful. For example, the guardian may be deceased, incapacitated, beyond the court’s jurisdiction, or otherwise unavailable. There also may be circumstances when the guardian is unwilling to comply despite the imposition of the court’s contempt power. With this latter illustration, the guardian may be a family member of the incapacitated person and escalating or extending

sanctions against the guardian may not be in the best interest of the incapacitated person. Notwithstanding the absence of a report, a recalcitrant guardian may still be subject to criminal prosecution or surcharge through other proceedings.

When the court appoints a successor guardian, the successor may be unable to complete and verify the required report because of incomplete record keeping by the prior guardian. However, the successor guardian of an estate would be required to file an inventory within 90 days of appointment so there is assurance that the status of current estate will be known and subject to comparison with prior reports.

Subdivision (f) was silent on what is to occur if a required report cannot be filed for the covered period. New subdivision (f)(4) authorizes the court to enter an order citing the reasons a guardian or former guardian cannot be compelled to comply with any filing requirements and either directing a successor guardian or designee of the court to file the report or entering the order in lieu of the delinquent report.

The Committee anticipates that subdivision (f)(4)’s “order in lieu of report” will be used sparingly given efforts to appoint qualified guardians and to educate guardians as to their responsibilities.

The proposal was published for comment. See 52 Pa.B. 5119 (August 20, 2022). No comments were received. Commentary was added to the rule post-publication to provide guidance regarding the term “designee of the court,” as used in subdivision (f)(4)(ii)(A).

This amendment becomes effective April 1, 2024.

[Pa.B. Doc. No. 23-811. Filed for public inspection June 23, 2023, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LYCOMING COUNTY

Amendment to the Rules of Civil Procedure; Doc. Number: CV 2023-00001

Order

And Now, this 22nd day of May, 2023, it is hereby *Ordered and Directed* as follows:

- 1) New Lycoming County Rule of Civil Procedure L205.4 is promulgated, as set forth on the following.
- 2) The Prothonotary is directed to do the following:
 - a) File one (1) copy of this order with the Administrative Office of Pennsylvania Courts;
 - b) Distribute two (2) copies and a computer disk of this order to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and
 - c) Forward one (1) copy of this order to the chairperson of the Lycoming County Customs and Rules Committee.
- 3) The chairperson of the Lycoming County Custom and Rules Committee is directed to do the following:
 - a) Publish the revised rules on the Lycoming Law Association website at <https://www.lycolaw.org/rules-contents>; and
 - b) Compile the rule revisions within the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*.

4) The new rule shall become effective 30 days after the publication of this order in the *Pennsylvania Bulletin*.

By the Court

NANCY L. BUTTS,
President Judge

L205.4. Electronic Filing and Service of Legal Papers.

A. Electronic Filing.

1. All legal papers as defined by Pa.R.C.P. 205.4(a)(2) associated with the civil case types listed in A.2. below may be filed electronically.

2. *Case Types.* Electronic filing is allowed in the following case types:

(a) Tort (intentional, malicious prosecution, motor vehicle, nuisance, premises liability, product liability, slander/libel, defamation, and other);

(b) Mass tort (asbestos, tobacco, toxic tort, toxic waste, and other);

(c) Professional liability (dental, legal, medical, and other);

(d) Contract (buyer protection, debt collection—credit card; employment dispute, employment dispute—discrimination, and other);

(e) Real property (buyer protection, ejectment, eminent domain/condemnation, ground rent, landlord/tenant dispute (excluding MDJ appeals), mortgage foreclosure, partition, quiet title, and other);

(f) Statutory appeals (board of assessment, board of elections, zoning appeal, and other);

(g) Miscellaneous (common law/statutory arbitration, declaratory judgment, mandamus, quo warranto, replevin, and other).

(h) Municipal and tax claims/liens;

(i) Liens (Commonwealth, broker's, federal, mechanics, municipal);

(j) Judgments (amended, by transcript (Magisterial District Judge), confession, default, deficiency, enforcement, revival, satisfaction, and transfer);

(k) Arbitration appeals;

(l) Writ of scire facias;

(m) Writ of revival;

(n) Civil subpoenas; and

(o) Civil appeals to Supreme, Commonwealth and Superior Courts.

3. *Registration.* Electronic filers must register with the prothonotary's designated electronic filing management system in accordance with the user manual. All registered users shall be individuals, not law firms, agencies, corporations, or other groups.

4. *Original document.* A legal paper filed electronically shall be deemed to be the original document but copies of exhibits electronically filed do not constitute the original of the exhibit for evidentiary purposes.

B. Form of Documents Electronically Filed.

1. *Format.* To the extent practicable, documents shall be formatted in accordance with the applicable rules governing formatting of paper documents. All electronic filings shall be in Portable Document Format ("PDF").

2. *Document Title.* The title of each electronically filed document shall match the title of the docket entry.

3. *Signature.* Each electronically filed document shall be deemed to have been signed by the attorney, or party not represented by an attorney, authorizing such filing and shall bear a facsimile or typographical signature of such person, e.g. "/s/ Adam Attorney." Each document electronically filed shall also include the typed name, address, and telephone number of the attorney or unrepresented party filing such document.

C. Public Access to the Docket.

1. Public access to the prothonotary's civil case dockets shall be available on the Internet at www.lyco.org/Elected-Officials/Prothonotary-Clerk-of-Courts

2. The prothonotary shall make a public access terminal available to the general public, to allow access to the electronic case records.

D. Filing Fees.

1. All filing fees and payments shall be made at the time of filing with an authorized credit card through the prothonotary's designated electronic filing management system. Authorized cards shall include Visa, MasterCard or Discover. Filing fees and payments may not be deposited in advance with the prothonotary. Any document for which a fee would otherwise be charged, that is accompanied by a praecipe or petition to proceed in forma pauperis, will be accepted for filing and time-stamped in accordance with Pa.R.C.P. No. 240(c) and (d).

2. The prothonotary may charge a convenience fee for the conversion of a legal paper or exhibit to PDF format for electronic filing.

E. Sealed Documents.

1. Documents intended to be filed under seal shall be designated by the filing party as "sealed" in the prothonotary's designated electronic filing management system. The filing party must submit a proper request for sealing documents in addition to making the designation.

2. The prothonotary will include the filing details and document title in the electronic filing system. The documents can be viewed only by the court, prothonotary office staff, and case participants, as applicable.

F. Time of electronic filing.

1. The prothonotary's designated electronic filing management system shall provide to the filer, using the email address registered by the filer, an email acknowledging that the filing was received. An official notification will also be displayed in the prothonotary's designated electronic filing management system, which includes the time and date, as a pending filing awaiting approval by the prothonotary. The prothonotary shall provide the filer with notification when the legal paper has been either accepted or rejected.

2. If a legal paper is accepted, it shall be deemed to have been filed as of the date and time it was received by the prothonotary's designated electronic filing management system.

Note: Access to the prothonotary's designated electronic filing management system shall be always available, except during routine maintenance; however, legal documents can only be reviewed by prothonotary staff during normal office hours. Filers are cautioned to file required legal papers well in advance of any filing deadlines to enable timely correction and re-submission in the event a legal paper is not acceptable for filing.

3. The prothonotary will maintain one hard copy of documents that are filed electronically.

G. Service of Legal Papers.

1. Once electronically filed original process has been accepted by the prothonotary, it shall be the responsibility of the filing party to provide to the sheriff the proper service fee and documents for service.

2. Service of all other documents shall be by the filing party, in accordance with the rules of civil procedure.

H. Obligation of Registered Electronic Filing Users to Maintain Proper Contact Information. Parties or attorneys who register to use prothonotary's designated electronic filing management system shall provide notification within ten days of any change in firm name, address, fax number, or email address.

[Pa.B. Doc. No. 23-812. Filed for public inspection June 23, 2023, 9:00 a.m.]
