

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Fee Schedule/Procedure for Family Support Lien/ Judgment Certifications; Administrative Regula- tion No. 99-10

Effective thirty (30) days from publication in the *Pennsylvania Bulletin*, *Whereas*: (1) the Pennsylvania Legislature has amended 23 Pa.C.S. § 4352(d) and promulgated 23 Pa.C.S. § 4352(d.1), providing that certain support obligations shall constitute a judgment by operation of law against the support obligor, and lien by operation of law against all real and personal property owned by the obligor within the judicial district in which the arrears are recorded; and (2) *Whereas* existing Family Division records relating to support obligations contain confidential information which cannot be provided to third parties, it is necessary for the Family Division to implement procedures to verify to third parties the existence and amount of support obligations; and (3) *Whereas* 23 Pa.C.S.A. § 4352(d.1)(6)(ii) provides for a maximum fee of \$20.00 to be charged by the Family Division to provide written lien certifications,

It is Hereby Ordered that the following administrative procedure is adopted in Philadelphia County to provide written certification of the balance of family support obligations:

(1) It is strongly recommended that the request for certification of support arrears be sent no later than fifteen (15) calendar days before the anticipated settlement date. Any person or entity seeking notice of the amount of support arrears owed by a named individual shall complete the information required in Parts A and B "Request for Support Arrears Balance" Form and forward the Form to:

Clerk of Family Court
Room B-16
34 S. 11th Street
Philadelphia, Pa. 19107

(2) The envelope containing the Form shall be clearly marked: "Request for Support Arrears Balance (Lien/Judgment Certification)," and accompanied by a \$20.00 business check, cashier's check, certified check, or money order, made payable to "Prothonotary," and a stamped, self-addressed envelope. The name and social security number of the individual for whom the information is requested shall be clearly indicated on the \$20.00 payment.

(3) The funds generated by this charge shall be forwarded to the Prothonotary of the First Judicial District of Pennsylvania, according to existing procedures for other fees collected by the Clerk of Family Court. The funds generated by this Administrative Regulation shall be set aside by the Prothonotary and remitted monthly to the Domestic Relations Division Accounting Unit, which shall maintain, account for, and distribute the funds in accordance with federal regulations governing funds collected under Title IV-D of the Social Security Act.

(4) A separate Form accompanied by a separate payment shall be used for each individual for whom information is requested.

(5) The Family Division shall complete Part C of the Form and return it to the requesting party in the stamped, self-addressed envelope within five (5) business days of its receipt by the Family Division, or the date of settlement, whichever is later. If the named individual has eligible support arrears on record in Philadelphia County, the Family Division shall enter the date and amount of arrears certification on the docket records of the affected support cases.

(6) A properly completed and certified Form containing the raised Seal of the Family Court Division of the Court of Common Pleas of Philadelphia shall constitute either a certification by the Family Division of the "Total Payoff Amount" for the lien/judgment as of the settlement date provided, or that there are no eligible support arrears of record in Philadelphia County for the named individual.

(7) The certification of support arrears by the Family Division is only valid as to the combination of name and social security number provided by the requestor. The certification to be prepared by the Family Division will be based strictly on the information as provided by the requestor. If the information provided on the Form by the requestor for the named individual is incorrect, notwithstanding that a certification of support owed is processed by the Family Division based upon the incorrect information provided by the requestor, if that individual has eligible support arrears of record in Philadelphia County under a name and/or social security number that is different from that which was provided by the requestor, then the lien and judgment by operation of law shall remain in full force and effect as to the individual, and as to the individual's property.

(8) If there are no eligible support arrears of record with the Family Division, the Family Division will so indicate by checking the appropriate box in Part C of the Form.

(9) If the named individual for whom information is requested must personally appear at Family Court to resolve outstanding issues relating to a support case before the certification will be issued, the Family Division will so indicate by checking the appropriate box in Part C of the Form. Because of the confidential nature of the information contained in Family Court records, the Family Division will not convey to third parties the substance or nature of the outstanding issues that must be resolved before the support arrears will be certified.

(10) The "Total Payoff Amount" provided by the Family Court Division shall consist of the aggregate balance of all support arrears of record with the Family Court Division as of the "date prepared" that are eligible to be collected via enforcement of a lien or judgment. The balance provided may not reflect additional arrears that might be owed by the support obligor, but which are not collectible via enforcement of a lien or judgment at the time the certification is issued.

(11) Any funds withheld from the proceeds of a sale of real or personal property for the purpose of satisfying a judgment or lien arising from support arrears must be sent to the Pennsylvania State Collections and Disbursement Unit ("PA SCDU") within fifteen (15) days of withholding. To satisfy the support arrears and remove the judgment or lien, the "Total Payoff Amount" must be received in the form of a business check, cashier's check, certified check, or money order made payable to "PA SCDU," that clearly identifies the support obligor and the

obligor's social security number, the obligor's PACSES member number, the case ID number(s) to which the payment is to be applied, and the amounts to be applied to each case.

(12) The payment shall be accompanied by a copy of the "Request for Support Arrears Balance (Lien/Judgment Certification)" form that was completed and certified by the Family Division, and upon which the payment is based, and mailed to: PA SCDU, P. O. Box 69110, Harrisburg, Pa. 17106-9110.

(13) The balance certified shall be effective only for the time periods prescribed by applicable law.

(14) Upon receipt and posting of the funds the account will be credited, and the Domestic Relations Division will, upon request, issue an Order of Court stating that the

eligible support arrears of record with the Family Division of the Philadelphia Court of Common Pleas, as of the date of settlement or transfer, have been paid in full, subordinated, or otherwise settled. If, under applicable law, the funds submitted exceed the amount that is collectible by that remedy, the excess payment shall be refunded directly to the support obligor.

(15) The support information provided by the Philadelphia Family Court Division shall under no circumstances constitute a confirmation of the support obligor's social security number.

PAUL P. PANEPINTO,
Administrative Judge
Family Court Division

COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY • FAMILY DIVISION

Part A. Request for Support Arrears Balance (Lien/Judgment Certification)

(this request MUST be accompanied by \$20 payment for the processing fee as required by Philadelphia Family Court Administrative Regulation 99-10) Pursuant to the provisions of 23 Pa.C.S.A. §4352(d) and (d.1), and Philadelphia Family Court Administrative Regulation 99-10, the undersigned hereby requests that the Family Court Division of the Philadelphia Court of Common Pleas provide the following information regarding the amount of support owed by the specified individual who is the Buyer or Seller of a property within Philadelphia County.

Requested by Title Request date
Company name Address EIN Telephone number

Part B. Information on Buyer or Seller of property (MUST BE PROVIDED):

Last Name First Initial Social Security Number
Alias, if any: Last Name First Initial Date of Birth Settlement date

Part C. Support Balance Information (to be provided by Family Court)

- Philadelphia Family Court has no record of an outstanding support balance for the above named individual.
Before the lien/judgment certification can be provided the above named Buyer/Seller must appear at Family Court's Customer Service Center in the lobby of the Family Court Building, 34 S. 11th Street, to resolve outstanding issues regarding the support case(s).
The above named individual has an outstanding support balance(s) for the following case(s) and amount(s):

PACSES Member Number:

TOTAL PAYOFF AMOUNT FOR ALL FAMILY SUPPORT LIENS/JUDGMENTS AS OF SETTLEMENT DATE PROVIDED*: \$

Table with 6 rows and 4 columns: Case ID Number, Arrears Balance(a/o date prepared), Case ID Number, Arrears Balance(a/o date prepared)

Number of additional sheets attached: None

Certification

Pursuant to the provisions of 23 Pa.C.S.A. §4352(d) and (d.1), and Philadelphia Family Court Administrative Regulation 99-10, I certify that the above information and the information in any attachment hereto is an accurate and complete accounting for all eligible support arrears on record with the Philadelphia Family Court as being owed by the above-referenced Buyer or Seller as of the date prepared, and that I am authorized by Philadelphia Family Court to certify this information.

Certified by Title Tel. No. Date prepared [COURT SEAL]

*IMPORTANT NOTE: The payoff amount does not reflect account adjustments or credit that might have been given for support payments posted after the "date prepared." In order for Family Court to clear the support lien/judgment as of a specific certification date it must receive payment in full for the "Total Payoff Amount." Payment must be submitted to Family Court within fifteen (15) days of withholding. The total payoff amount is only valid for the time period provided by law, and except as otherwise provided by law, any support arrears arising after the date prepared shall constitute a lien and judgment by operation of law against the support obligor and the obligor's property.

**Fee Schedule/Procedure for Family Support Lien/
Judgment Search for Purpose of Legal Name
Change; Administrative Regulation No. 99-11**

Effective thirty (30) days after publication in the *Pennsylvania Bulletin*, a \$20.00 fee is established by the Domestic Relations Division of the Philadelphia Family Court, for providing written certification of the existence or non-existence of family support judgments for an individual, for use as supporting documentation of the individual's Petition to Change Name.

In order to facilitate the search, the person or entity requesting the certification must submit sufficient information to identify the individual for whom the search is to be conducted, including that individual's name, social security number, date of birth, and address. A certified check, cashier's check, money order, or attorney's check in the amount of \$20.00, made payable to "Prothonotary," must accompany the written request for the certification, and be sent to:

Clerk of Family Court
34 S. 11th Street
Room B-16
Philadelphia, Pa. 19107

The funds generated by this charge shall be forwarded to the Prothonotary of the First Judicial District of Pennsylvania, according to existing procedures for other fees collected by the Clerk of Family Court. The funds generated by this Administrative Regulation shall be set aside by the Prothonotary and remitted monthly to the Domestic Relations Division Accounting Unit, which shall maintain, account for, and distribute the funds in accordance with federal regulations governing funds collected under Title IV-D of the Social Security Act.

PAUL P. PANEPINTO,
Administrative Judge
Family Court Division

[Pa.B. Doc. No. 00-53. Filed for public inspection January 7, 2000, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CARBON COUNTY

**Adoption of Local Rule of Criminal Procedure
LCR316 Compensation Rates for Court-
Appointed Conflict Counsel; No. 086 MI 99 332
JV 99**

Administrative Order No. 13-1999

And Now, this 14th day of December, 1999, it is hereby

Ordered and Decreed, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, that the Carbon County Court of Common Pleas hereby *Adopts* Local Rule of Criminal Procedure LCR316 governing Compensation Rates for Court-Appointed Conflict Counsel in Homicide and Non-Homicide cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. Forward one (1) copy for publication in the Carbon County Law Journal.

5. Forward one (1) copy to the Carbon County Law Library.

6. Keep continuously available for public inspection copies of the Order and Rule in the Clerk of Court's Office and the Juvenile Court Office.

By the Court

JOHN P. LAVELLE,
President Judge

**Rule LCR 316. Compensation Rates for Court-
Appointed Conflict Counsel.**

A. Non-Homicide Criminal Cases

(1) Counsel, not exceeding one, who has been assigned to represent:

(a) a defendant charged with a non-homicide criminal offense;

(b) an individual in any post-conviction proceedings or,

(c) a juvenile formally charged with delinquency,

shall, at the conclusion of the representation, or any segment thereof, be compensated for his/her services in such representation and reimbursed for all reasonable expenses advanced by counsel which were necessarily incurred.

(2) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

(3) Counsel shall be compensated at a rate not exceeding forty dollars (\$40) per hour for time expended in a Court of record and at a rate of thirty dollars (\$30) per hour for time reasonably expended out of Court. For representation of a defendant in a case in which one or more felonies are charged or for proceedings under the Post Conviction Hearing Act, the compensation paid to an attorney shall not exceed fifteen hundred dollars (\$1,500). In a case in which only misdemeanors or juvenile delinquencies are charged, payment shall not exceed seven hundred and fifty dollars (\$750).

(4) Payment in excess of the limits stated herein may only be made, if the Judge to whom the application is made certifies that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation.

(5)(a) Assigned counsel may also make a written request to obtain investigative, expert, or other services necessary to an adequate defense. Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant. The compensation paid to a person for such services rendered to a defendant shall not exceed five hundred dollars (\$500).

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court, at the conclusion of such expert

services rendered on behalf of the defendant, counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses. Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and order payment to counsel of such expert fees as are considered reasonable and necessary.

(6) Counsel so assigned shall not, except with prior approval of the Court, receive or contract to receive directly or indirectly, any compensation for such services or reimbursement for expenses from any source other than herein provided.

(7) Counsel shall be appointed under this Rule only when, because of conflict of interest or other sufficient reason, the individual cannot properly be represented by the Public Defender.

B. Homicide Cases

(1) Counsel appointed shall not exceed one, except that in cases of extreme complexity or where the Trial Judge may, after consultation with, and the consent of the President Judge, appoint co-counsel.

(2)(a) Assigned counsel may also petition the Court to obtain investigative, expert, or other services necessary to an adequate defense. Upon finding, after proper inquiry, that such services are necessary, the court, by written order, shall authorize counsel to obtain such services on behalf of a defendant.

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the court at the conclusion of such expert services rendered on behalf of the defendant, counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to the Trial Judge, and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses. Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary. The reviewing Judge will then forward the Petition and Order for reimbursement to the Court Administrator for payment.

(3) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

(4) Counsel shall be compensated for services rendered at a rate not exceeding fifty dollars (\$50) per hour for time reasonably expended in Court, and forty dollars (\$40) per hour for time reasonable expended out of Court. Such compensation shall not exceed four thousand dollars (\$4,000) where one counsel has been assigned, and shall not exceed a total of six thousand (\$6,000) where two counsel have been assigned. Payment in excess of the

limits stated herein may only be made if the Court, to whom the application is made, finds that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation.

(5) Counsel so assigned must file with the Judge an affidavit that he has not, directly or indirectly, received, nor entered into a contract to receive, any compensation for such services from any source other than herein provided.

C. Appointments

Appointments made pursuant to this rule continue through all stages of the proceedings.

D. Payment

Such allowance of expenses and compensation under this Rule shall be a charge upon the County of Carbon, to be paid by the County upon Order of the appropriate Judge.

[Pa.B. Doc. No. 00-54. Filed for public inspection January 7, 2000, 9:00 a.m.]

CARBON COUNTY

Adoption of Orphans' Court Local Rules of Procedure; 99-9422

Administrative Order No. 14-1999

And Now, this 16th day of December, 1999, it is hereby

Ordered and Decreed, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, that the Carbon County Court of Common Pleas hereby *Adopts* Local Rules of Court governing procedure in Orphans' Court cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Orphans' Court Procedural Rules Committee.
4. Forward one (1) copy for publication in the Carbon County Law Journal.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order and Rules in the Orphans' Court Office.

By the Court

JOHN P. LAVELLE,
President Judge

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RULE 1—JUDGES AND LOCAL RULES

Rule 1.2.1. Citation of Rules.

These Rules shall be known as Carbon County Orphans' Court Rules adopted pursuant to Pa.O.C.R. 1.2 and shall be cited as "Carbon Co. O.C.R. No. _____."

Rule 1.2.2. Petitions and Motions.

(a) Every original petition or motion filed shall set forth in its first paragraph the citation of any statute, Rule of court, or other authority relied upon to justify the relief requested.

(b) A copy of any notice required to be given shall be attached to the petition or motion.

Rule 1.2.3. Briefs.

Briefs will be prepared and filed in accordance with the provisions of Carbon Co. Civ. L. No. 210, unless otherwise ordered by the Court.

Rule 1.2.4. Attorneys.

The name and Supreme Court identification number of any attorney employed by any party in any proceeding pending in this Court shall be marked on the initial pleading or paper filed in the office of the Clerk. Any attorney who has properly entered an appearance will receive notice of all hearings, conferences, and orders.

Rule 1.2.5. Depository of the Court.

(a) *Deposit of Money or Securities in Court.* All monies paid or securities delivered into Court shall be deposited immediately in a segregated, federally insured account in such bank or trust company as the Clerk may designate, to the credit of the court in the particular estate or proceeding to which the money or securities may belong; and such depository shall keep a separate account of each payment and delivery, designating the same by name of the estate or proceeding. Unless otherwise specially ordered by the Court, all interest earned on said accounts shall accrue to the credit of the County of Carbon.

(b) *Withdrawals.* No money shall be paid out of Court by the depository, or securities delivered, except on checks or orders of the Clerk accompanied by a certified copy of the Order of Court authorizing such withdrawal or delivery.

(c) *Docket to be maintained.* The Clerk shall maintain a Money in Court Docket in which shall be entered con-

cisely under the name of the respective estates, the Orders of Court directing money to be paid into Court, as well as an accurate account of the money paid in and paid out, so that the record will fully explain itself.

RULE 2—CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3.1. Definitions.

(a) As used in these Rules “P.E.F. Code” shall mean a reference to the Probate, Estates and Fiduciary Code, June 30, 1972, P. L. 508, 20 Pa.C.S.A. § 101 et seq., as amended.

(b) As used in these Rules, the terms “Citation” and “Rule to Show Cause” shall be interchangeable unless otherwise indicated herein.

RULE 3—PLEADINGS AND PRACTICE

Rule 3.2.1. Pleadings, Motions and Petitions.

(a) Motions and petitions shall be governed by the provisions of Carbon Co. Civ. L. 206.

(b) A copy of every pleading, including exceptions, shall be promptly served upon counsel of record for all parties in interest, and upon any party who is not represented.

Rule 3.2.2. Pleadings, Disposition, Issues of Fact or Law.

(a) Except in those cases where no responsive pleading is required, if the respondent fails to answer a petition to which an answer is required under the Carbon County Rules of Civil Procedure or the Pennsylvania Orphans’ Court Rules or the Pennsylvania Rules of Civil Procedure within twenty (20) days of service, all material averments of fact in the petition shall be taken as admitted and the Court may, at any time after the reply day or return day and upon proof of service of the Rule to show cause upon the respondent at least ten (10) days prior to the return date, upon motion, enter a decree granting the prayer of the petition or such other relief deemed appropriate by the court.

Rule 3.4.1. Form. Exhibits.

(a) *Endorsements.* Every pleading shall be endorsed with the name of counsel, if counsel has appeared for a party.

(b) The signature of an attorney to a petition shall constitute a certification by that attorney that all copies of written or printed instruments, records, or documents which are not certified or authenticated, are true and correct copies of the original.

Rule 3.4.2. Consents. Joinders. Form.

(a) All petitions shall aver that all parties in interest are petitioners, or that consents or joinders of all necessary parties are attached or, if the petitioner is unable to attach a necessary consent or joinder, this fact shall be stated in the petition together with the reason.

(b) Whenever a party other than a petitioner desires to consent to or join in the prayer of a petition, there shall be appended to the petition a written “Consent” or “Joinder” signed by the party in the following form:

I, _____, having read and considered the contents of the foregoing petition, do herewith waive the benefit of all requirements of notice of the presentation, or service upon me, of said petition, do authorize the Court to note my general appearance in said proceeding as though I had appeared personally or by counsel, do herewith waive all objections to the Court’s

jurisdiction over my person, and do herewith consent to or join in [add specifics of prayer for relief].

RULE 5—NOTICE

Rule 5.1.1. Notice. Legal Publication.

The *Carbon County Law Journal* and *The Times News* and such other publications as may be designated by the President Judge shall be the legal periodicals for the publication of notice whenever publication in a legal periodical is required by Act of Assembly, Rule, or Order of Court.

Rule 5.2.1. Method. Person under Incapacity. No Guardian or Trustee.

Whenever notice is given to a person who is not sui juris and for whom there is no guardian or trustee, notice shall be given by serving it upon the person, if over fourteen years of age, and in all cases, upon:

- (a) The person’s spouse, if sui juris, or
- (b) The person’s next of kin, if sui juris, or
- (c) The person with whom he or she resides or by whom he or she is maintained; or
- (d) The superintendent or other official of the institution having custody of the person; or
- (e) In such manner as the Court, by special order, may direct.

Rule 5.4.1. Notice. Additional Requirements.

(a)(1) *Personal Service.* Return of personal service shall set forth the date, time, place and manner of such service, and that a true and correct copy of the petition and notice were handed to the person served.

(2) *Registered or Certified Mail.* Return of notice by registered or certified mail shall set forth the date and place of mailing the petition and notice and shall include the return receipt or a copy thereof.

(3) *Publication.* Return of notice by publication shall set forth the date(s) and newspaper and/or legal periodicals of publication and shall include proofs of publication or copies thereof.

(b) Except as may otherwise be provided, by statute, Rule or special order, a return of notice shall be filed with the Clerk prior to the date set for the occurrence of the event of which notice has been given.

Rule 5.5.1. Charities. Notice to the Attorney General.

Notice to the Attorney General or his designated deputy shall be given in accordance with the provisions of Pa.O.C.R. No. 5.5 in any matter which involves:

- (a) a specific bequest to a charity in the amount of \$25,000.00 or more;
- (b) a specific bequest to a charity totaling less than \$25,000.00 which will not be paid in full; or
- (c) a charitable bequest of any amount payable out of the residue of the estate.

RULE 6—ACCOUNTS AND DISTRIBUTION

Rule 6.1.1. Accounts Required. Time for Filing. Family Settlement Agreement in Lieu of Audit and Confirmation.

(a) *Accounts Required.* In every decedent’s estate in which Letters Testamentary or Letters of Administration have been issued by the Register of Wills, the executor, administrator or other personal representative shall file

an account with the Clerk of the Orphans' Court. Each such account shall conform to the requirements of Pa.O.C. Rule 6.1, and shall include either a Statement of Proposed Distribution or a request that distribution be determined by the Court or an auditor.

(b) *Time for Filing.* Every account required to be filed by this rule shall be filed not later than eighteen (18) months following the date of issuance of Letters Testamentary or Letters of Administration unless the Court, upon petition and for good cause shown, shall have extended the time for filing same.

(c) *Family Settlement Agreement.* As an alternative to formal submission and confirmation of an account, a personal representative may file with the Clerk of Orphans' Court a Family Settlement Agreement. Each Family Settlement Agreement shall have attached thereto a first and final account of the executor, administrator or other personal representative indicating all transactions during the administration of the estate, which account shall be substantially in the form prescribed by Carbon Co. O.C.R. No. 6.1.2. Each Family Settlement Agreement shall also have attached thereto a Statement of Proposed or Actual Distribution, and a release signed by each and every heir, beneficiary or other party in interest approving the account, waiving the requirement that the account be audited and confirmed by the Court and discharging the executor, administrator or other personal representative.

Rule 6.1.2. Form of Accounts. Additional Requirements.

(a)(1) All accounts shall be in the form approved by the Pennsylvania Supreme Court and as explained by the Uniform Fiduciary Accounting Principles, pursuant to Pa.O.C. Rule 6.1(g).

(2) Accounts shall be stated on 8 1/2" by 11" paper, fastened together at the top and numbered consecutively at the bottom.

(3) Every account filed with the Clerk shall be signed by each accountant and shall be verified by at least one accountant.

Rule 6.3.1. Notice to Parties in Interest.

(a) Notice of the filing and of the date and time for confirmation as required by law and Rule of Court shall be given by certified or registered mail, return receipt requested, at least ten days prior to the confirmation date. In lieu of such notice, a written waiver of notice may be filed for any party. The notice shall state that any party may file objections in writing with the Clerk of the Orphans' Court at any time prior to the date and time fixed for confirmation, and that if no objection is filed, the Account and Statement of Proposed Distribution will be confirmed absolutely.

(b) In addition to notices otherwise required by law or statute, the surety on the bond of any fiduciary seeking discharge shall be given written notice of the filing of the petition and of the date and time for presentation for Final Decree, by certified or registered mail, return receipt requested, at least ten days prior to the date scheduled for discharge. In lieu of such notice, a written waiver of notice may be filed. The notice shall state that the surety may file objections in writing with the Clerk of the Orphans' Court at any time prior to the time fixed for Final Decree, and that if no objections are filed, a Final Decree shall be entered as of course.

(c) Prior to the date set for confirmation of the account, the accountant, or counsel, shall file with the Court a return of notice as prescribed in Rule 5.4.1. hereof, in form approved by the Court.

(d) If it shall appear that timely and proper notice has not been given to all parties entitled to notice or that the requisite affidavit of notice has not been filed, or that all costs have not been paid, no order of confirmation or discharge will then be made and in lieu thereof the procedure shall be as follows:

(1) If the irregularity is remedied within twenty (20) days, the Clerk shall represent the matter to the assigned Judge in Chambers for confirmation or discharge order, provided at least ten (10) days have elapsed after notice was given to any party and provided that no objection, exception or answer has been filed meanwhile. If any such objection, exception or answer has been filed, the provisions of Rule 6.4.1(b) shall apply.

(2) If the irregularity has not been so remedied within twenty (20) days, the time for confirmation or for discharge order shall be as of course extended until the next regular scheduled session for confirmation and discharge, and re-advertisement and re-notification of all parties shall be required, unless the fiduciary makes written application to the Court and obtains special relief for cause shown.

(3) In any case now pending or hereafter arising in which an account, statement of proposed distribution, or discharge petition has been filed but remains unconfirmed for unremedied procedural defect, the Clerk may file a petition with the Court stating the essential facts and requesting issuance of a Rule to show cause why an order denying confirmation or dismissing the discharge petition should not be made. A copy of such petition shall be furnished by mail to the fiduciary and his or her counsel, and to each party entitled to receive notice and the case shall be placed on the argument schedule for hearing and argument.

(e) The Clerk shall give notice of all accounts filed and of the time and place of the call of the Confirmation List. The notice shall be published once a week for two (2) consecutive weeks immediately prior to the date of confirmation in the legal publication designated by these Rules and in one daily newspaper of general circulation published within Carbon County, and the Clerk shall also post copies of the Confirmation List in his/her office.

(f) The form of advertisement of Accounts and Statements of Proposed Distribution that have been filed for confirmation by the Court shall be as follows:

NOTICE OF CONFIRMATION OF FIDUCIARIES'
ACCOUNTS

To all claimants, beneficiaries, heirs, next-of-kin, and all other parties in interest:

NOTICE is hereby given that the following named fiduciaries of the respective estates designated below have filed their Accounts and Statements of Proposed Distribution in the office of the Register of Wills in and for the County of Carbon, Pennsylvania, and the same will be presented to the Orphans' Court Division, Courtroom No. _____, Carbon County Courthouse, Jim Thorpe, Pennsylvania, on the _____ day of _____, _____ at _____ .m. for confirmation. All objections must be filed in writing in the office of the Clerk of Orphans' Court Division, Court of Common Pleas, Jim Thorpe, Pennsylvania, prior to the foregoing stated date and time:

ESTATE	FIDUCIARY	ATTORNEY
X	X	X

Clerk of the Orphans' Court

Rule 6.4.1. Accounts. Time for Filing.

The Register of Wills/Clerk of Orphans' Court shall fix a filing deadline for each regular session and shall give notice thereof at least two (2) weeks prior to the deadline. The time interval between the deadline and the session shall be sufficient to enable the Register/Clerk to make publication as provided by law and Rules of Court.

The Register of Wills/Clerk of Orphans' Court shall schedule for the next regular session all matters filed before the deadline for that session and shall make the required publication. The notices shall contain a statement that all objections must be filed in writing before the time fixed for confirmation, or final decree of discharge, as the case may be.

Rule 6.9.1. Accounts. Papers to be Submitted.

(a) *All Accounts.* Counsel for all fiduciaries shall submit:

1. Copies of all agreements with respect to settlements and compromises;

2. Accurate descriptions of all real property to be awarded in kind, described by metes and bounds in the manner appearing in the last deed of record, together with recital of title into the decedent; and

3. Statement of Proposed Distribution.

(b) *Accounts of Trustees.* Counsel for Trustees shall also submit:

(1) a waiver of an income accounting executed by all of the income beneficiaries, if the account does not contain a complete income accounting; and

(2) a Statement of Proposed Distribution.

(c) *Accounts of Guardians of the Estates of Minors.* Counsel for a Guardian of the estate of a minor shall also submit:

(1) where the former minor has attained the age of eighteen (18) years, his/her written stipulation setting forth that he/she attained the age of eighteen (18) years on a certain designated date, that he/she has examined the account and has found it correct; and that he/she has received the balance or balances shown in the account and requests that the guardian be discharged;

(2) where the former minor has attained the age of eighteen (18) years but has not executed the stipulation referred to in paragraph (18) of this Rule, then in place thereof a Statement of Proposed Distribution shall be filed;

(3) where the minor is deceased, or has been adjudged an incapacitated person under the P.E.F. Code, or is an absentee or presumed decedent, or the guardian has resigned or has been removed, a statement of Proposed Distribution shall be filed.

(d) *Accounts of Guardians of Estates of Incompetents/Incapacitated Persons.* The annual account of the guardian for an incompetent or incapacitated person shall be in the form prescribed by Carbon Co. O.C.R. No. 14.3.

Rule 6.10.1. Objections. Form and Content.

(a) Objections to an account, inventory, and statement of proposed distribution shall be in writing; shall be

numbered consecutively; shall be signed by the objector or his or her attorney; and where they contain allegations of fact, shall be properly verified in the same manner as a petition.

(b) Each objection shall be specific as to description and amount, shall raise but one issue of law or fact, and shall set forth briefly the reason or reasons in support thereof.

Rule 6.10.2. Objections. Time for Filing.

(a) Written objections to an account, inventory, or statement of proposed distribution may be filed as of course with the Clerk at any time prior to, or at, the call of the account for confirmation.

(b) No objections shall be made or filed except as provided in subparagraph (a) unless leave of Court is first obtained.

Rule 6.10.3. Objections. Deposit on Account of Fees and Costs.

Upon the filing of objections to an account, inventory or statement of proposed distribution, objectors shall deposit with the Orphans Court the sum of \$350.00 on account of the fees and costs of the Auditor or Master.

Rule 6.10.4. Objections. Service. Return.

A copy of objections to an account, inventory or statement of proposed distribution shall be served upon the accountant and all other parties in interest or their attorney of record, immediately after the objections have been filed with the Clerk. Proof of such service shall be filed forthwith with the Clerk. Any unreasonable delay in serving objections shall constitute grounds for dismissal of the same by the Court.

Rule 6.10.5. Objections. Failure to Make, Effect.

Any question which can be and is not raised by objections conforming to these Rules shall not thereafter be the subject of an exception to an order confirming an account or decreeing distribution.

Rule 6.11.1. Accounts. Confirmation.

All accounts on the advertised Confirmation List will be presented for Confirmation on the day set for confirmation; but, in cases requiring the taking of testimony or the hearing of argument on legal questions or in which objections have been filed, a hearing date will be scheduled by the Court.

Rule 6.11.2. Distribution under Section 3534 of P.E.F. Code.

(a) Where at the time of distribution of the estate the personal representative or a distributee requests the Court to divide, partition, and allot the real estate or to direct a sale thereof, an interlocutory decree shall be entered fixing a day certain, not less than twenty (20) days from the date of the interlocutory decree, for hearing; the interlocutory decree to be entered shall be in the form of a notice to all parties in interest that on the day so fixed for hearing the Court will hear the contentions of the parties in interest with respect to:

(1) whether the real estate can be divided among less than all of the parties in interest without prejudice to or spoiling the whole and if so, how; and

(2) whether the Court should direct the personal representative to sell at a sale confined to the distributees or at a private or public sale not so confined.

(b) A copy of the interlocutory decree, duly certified, shall be served by certified or registered mail, by the

personal representative, upon all parties in interest, not less than ten (10) days before the return day fixed in the decree; proof of service of notice, in the form of return receipts, to be filed upon the return day.

Rule 6.11.3. Settlement of Small Estates. Contents of Petition.

(a) *Contents of Petition.* A petition for the settlement of small estates under Section 3102 of the P.E.F. Code shall set forth:

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

(2) the petitioner's name and address and his/her relationship to the decedent;

(3) if the petitioner is the surviving spouse, the date and place of marriage to the decedent;

(4) whether the decedent died testate or intestate;

(5) the names, relationship, and interest of all persons entitled to share in the decedent's estate under the Will, if any and the names, relationship and interest, if any, intestate heirs, stating who are minors, incapacitated persons, or decedents, with the names of their fiduciaries, if any, and whether any of them received or retained any property of the decedent by payment of wages, salary or any accrued pension under Section 3101 of the P.E.F. Code or otherwise;

(6) where a claim for family exemption is included, a statement that claimant formed a part of the decedent's household at the date of death and, if the claimant is the surviving spouse, that he or she has not forfeited the right to claim the family exemption;

(7) an itemized statement of the gross personal estate to be distributed and the fair value of each item other than cash, such value to be that given in the inventory filed, and if one was filed, then the fair value, if not readily ascertainable, shall be fixed by two appraisers whose affidavits of value shall be attached to the petition;

(8) the disbursements made prior to the filing of the petition; the date and name of the person to whom paid; and the nature and amount of each payment;

(9) the names of all unpaid claimants of whom the petitioner has notice, the nature and amount of each claim, and whether such claims are admitted;

(10) that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register of Wills, the amount of any inheritance tax assessed, and the date of payment thereof, or the reasons why no such schedule was filed; and

(11) a statement that ten (10) days written notice of intention to present the petition has been given to every beneficiary, heir, or unpaid claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown.

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

(1) a copy of the decedent's Will;

(2) the consents of unpaid beneficiaries, heirs, and claimants; and

(3) the inheritance tax voucher, or in lieu thereof a statement from the inheritance tax department that no tax is due.

RULE 7—EXCEPTIONS

Rule 7.1.1. Exceptions. Form and Contents.

(a) No exceptions shall be filed to orders or decrees entered in proceedings unless the right to except thereto is expressly conferred by Act of Assembly, Pa. Orphans Court Rule, Local Rule, or special order, and all decrees other than those to which exceptions are so allowed to be taken are FINAL.

(b) Exceptions to findings of fact and conclusions of law contained in adjudications, orders and decrees shall be in writing, shall be numbered consecutively, and shall be signed by the exceptant or his attorney.

(c) Each exception shall be specific, shall raise but one question and shall set forth briefly the reason or reasons in support thereof.

(d) Questions which were the proper subject of objections to accounts, inventory, or statements of proposed distribution and were not raised when the account was called for confirmation, or questions which might properly have been raised by an answer to or during a hearing on a petition, shall not be subject of exceptions, and if so made shall be subject to dismissal.

Rule 7.1.2. Exceptions. Time for Filing.

Except as otherwise provided, exceptions shall be filed as of course with the Clerk within twenty (20) days from service of a copy of the adjudication, order, proposed order, or decree complained of, or a report of a Master or Auditor, and a true and correct copy of the exceptions served upon all parties in interest, or their counsel of record. Proof of service as aforesaid shall be filed with the Clerk prior to any disposition of the exceptions.

Rule 7.1.3. Exceptions. Partial Distribution.

When the matters which are the subject of an adjudication, schedule of distribution, or the report of an auditor or master, are so separate and distinct that an exception to any one or more, whether sustained or dismissed, cannot affect the remainder, and the accountant will not be prejudiced by the distribution of such remainder, confirmation of the adjudication, schedule of distribution, or report, shall not be suspended, except as to those matters to which exceptions have been filed; distribution may proceed as to the remainder, and any party from whom such distribution has been withheld may petition the Court to order distribution.

RULE 8—AUDITORS AND MASTERS

Rule 8.1.1. Appointment.

The Court, on its own motion, or upon petition of the accountant, or of any other party in interest, may appoint an Auditor or Master to assist the Court in the audit of an account or the disposition of an issue of fact in a matter.

Rule 8.1.2. Notice of Hearing. Hearings.

(a) The Clerk shall give written notice of an Auditor's or Master's appointment to all counsel of record and all interested parties not represented by counsel known to the Clerk.

(b) Notice of the hearings shall be given by the Auditor or Master.

(c) The hearing shall be held in an appropriate room at the Carbon County Courthouse at a time and place indicated and not later than forty-five (45) days after the Auditor's or Master's appointment and shall be extended only upon application to the Court for good cause shown.

Rule 8.5.1. Transcript of Testimony.

(a) Testimony given at an Auditor's or Master's hearing shall be stenographically recorded, unless otherwise ordered by the Court upon application by a party, or the Auditor or Master.

(b) The transcript of testimony taken before an Auditor or Master shall be filed with the report.

(c) Fees may be taxed as costs and the Auditor or Master shall recommend to the Court that the stenographer's fees follow the award as costs in appropriate cases.

Rule 8.6.1. Filing of Report. Notice of Filing. Proof of Notice.

(a) An Auditor or Master shall file with the Clerk of Orphans Court his or her original report, together with the transcript of testimony and the proposed Decree Nisi, not later than 120 days after conclusion of the final hearing, and shall give notice in writing to all parties in interest or their counsel of record of the filing of such report, and shall further file proof of the giving of notice with the Clerk.

(b) The Clerk shall serve a copy of said report and proposed Decree Nisi upon each counsel of record and to each party in interest not represented by counsel.

Rule 8.7.1. Report of Auditor or Master. Disposition Procedure.

(a) Subject to the provisions of Carbon Co. O.C.R. No. 8.8.1(b), the report of an Auditor or Master shall be transmitted to the Court for Confirmation Nisi upon filing with the Clerk and shall become FINAL unless written exceptions thereto are filed within twenty (20) days after the date of filing the report.

(b) *Exceptions.* Any party in interest shall have the right to file exceptions to the report of an Auditor or Master within twenty (20) days after the filing and Confirmation Nisi thereof.

Rule 8.8.1. Compensation and Security.

(a) Any Auditor or Master appointed by the Court under these Rules shall be compensated by reasonable fees as fixed by the Court and paid from such sources as the Auditor or Master shall recommend and the Court shall direct.

(b) A motion to the Court to require additional security for payment of fees and expenses may be filed with the Clerk at any time by the Auditor or Master, Accountant or any party in interest. The report shall not be filed with the Clerk until all fees and expenses have been paid.

RULE 9—OFFICIAL EXAMINERS**Rule 9.1.1. Official Examiners.**

Whenever an examination of assets is ordered in connection with an accounting, the special order of appointment will be included in the adjudication of the account, and the examiner shall make the examination after the schedule of distribution has been filed and approved so that the assets distributable to fiduciaries, which are the assets to be examined, will have been determined.

Rule 9.1.2. Official Examiners. Compensation.

Each estate shall be liable for the compensation of the examiner and the amount of such compensation shall be fixed by special Order of the Court.

RULE 10—REGISTER OF WILLS**Rule 10.1.1. Appeals From Grant of Letters.**

Appeals from the grant of letters of administration or letters testamentary, whether founded upon discovery of a later will or otherwise, shall initially be filed with and heard by the Register of Wills, who shall conduct a hearing on such appeal within thirty (30) days of the filing of same. The Register of Wills shall issue a written decision granting or denying the appeal not later than ten (10) days following the date of the hearing. Appeals to the Court from the decision of the Register shall be as provided in Carbon Co. O.C.R. No. 10.1.2.

Rule 10.1.2. Form of Appeal From Register of Wills Decision.

When an appeal is taken from a judicial act or proceeding before the Register of Wills, the appellant shall do so by petition which sets forth:

(1) the nature of the proceedings before the Register of Wills;

(2) the reasons for the appeal;

(3) the names and addresses of all parties in interest, including those who have not been made parties to the record and their counsel; and

(4) A request that a Rule to Show Cause issued directed to all parties in interest including those not represented on the record to show cause why the appeal should not be sustained and the judicial act or proceeding complained of be set aside and reversed.

Upon the issuance of the Rule to Show Cause, the Register of Wills shall certify the record to the Court.

Rule 10.2.1. Inheritance Tax Appeals.

Practice and procedure in inheritance tax appeals shall be in accordance with the Inheritance and Estate Tax Act, 72 P. S. § 9101 et seq.

RULE 12—SPECIAL PETITIONS**Rule 12.1.1. Family Exemption. Appraisal.**

(a) Where the exemption is claimed from personal property included in the inventory filed, the value of each item so claimed shall be that given in the inventory filed.

(b) Where the exemption is claimed from personal property forming part of a Small Estate and no inventory has been filed, the value of each item claimed shall be the fair value thereof.

(c) Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed;

(1) in money;

(2) from personal property and the gross value of the estate does not exceed the amount of the exemption;

(3) in real or personal property at valuations agreed upon by all parties in interest.

Rule 12.1.2. Family Exemption. Allowance.

(a) *Personal Property.* If the petitioner requests the exemption prior to confirmation, the petitioner shall file a petition with the Clerk and thereupon shall give ten (10) days written notice of intention to request the exemption to the personal representative, if any, and to all persons adversely affected thereby who do not join the prayer of the petition. Objections to the exemption may be filed by any party in interest within twenty (20) days of service of notice thereof.

(b) *Real Property.* If the Petitioner requests the exemption prior to the Confirmation, the appraisers shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed, and written notice of such filing shall be given to the personal representative and to the next of kin, or, if there be neither personal representative nor next of kin, to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate to the petitioner will be requested and may be allowed by the Court unless objections are filed thereto within twenty (20) days. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court may direct.

Rule 12.1.3. Family Exemption. Risk Distribution Prior to Confirmation.

When the personal representative at his or her own risk delivers assets of the estate in satisfaction of the exemption he shall set forth the same as a disbursement in the account under the subheading "Family Exemption." Such delivery may be the subject of objection by any claimant or party in interest.

Rule 12.2.1. Allowance to Surviving Spouse of Intestate. Appraisal.

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

Rule 12.3.1. Election of Surviving Spouse. Filing of Petition for Extension of Time.

(a) A petition for the extension of time in which the surviving spouse may file an Election to Take Against the Will shall include the requirements for a petition under Pa.O.C. Rule 12.3(a) and the facts relied upon to justify an extension of time in which to file the election.

(b) The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension to all persons adversely affected thereby who do not join the prayer of the petition.

(c) In the absence of objection, on the presentation of an appropriate motion and verified return of notice at the rule to show cause returnable day designated in the petition, an appropriate decree may be entered.

Rule 12.5.1. Appointment of Guardian for Minor. Consents Required.

(a) *Consent of Parents or Person in Loco Parentis.* Written consent of the parents or surviving parent of the minor to the appointment of a guardian of the estate or person is required. If both parents are deceased, such consent is required of the adult person with whom the minor resides or of the superintendent or other official in charge of the institution having custody of the minor. If such consent is not obtained, the petitioner shall set forth the reason and give such notice of the petition as the Court may direct.

(b) *Consent of Guardian. Individual.* When the proposed guardian is an individual, written consent to act as such shall contain the following:

- (1) the individual's business, and domicile;
- (2) a statement that the individual is a citizen of the United States, able to speak, read, and write the English language; and

(3) a statement that the individual is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety or an officer or an employee of the corporate surety of such a fiduciary; and

(4) a statement that the individual has no interest adverse to the minor.

(c) *Consent of Guardian. Corporate.* When the proposed guardian is a corporation authorized to act as fiduciary, its written consent to act as such shall contain a statement that it is not the fiduciary of an estate in which the minor has an interest nor the surety of such a fiduciary and that it has no interest adverse to the minor.

Note: The foregoing Rules relating to the appointment of a guardian of a minor's estate are subject to the powers given to persons to appoint a guardian by Will, by inter vivos trust agreement, etc. (See Section 2519 of the P.E.F. Code.)

Rule 12.5.2. Guardians. Minors. Bond. Restricted Account.

(a) If funds are placed in a restricted account in accordance with the Probate, Estates and Fiduciaries Code, the decree of the Court may contain a further provision that if no withdrawals are made from the account prior to the minor reaching his majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the guardian and the former minor without further Order of the Court.

(b) A guardian who has received assets in addition to the deposit or investment made in accordance with this Rule, shall account as if the restricted account did not form part of the estate.

Rule 12.5.4. Minor's Estate. Allowances. Approval of Court.

(a) *Mandatory Approval by the Court.* No payments shall be made by the guardian of the estate unless approval by the Court is first obtained when payment is to be made from principal, or when special services have been performed by counsel and the guardian is in doubt as to the reasonableness of the fee.

(b) *Contents of Petition. Allowances for Maintenance, Support, or Education.* A petition for an allowance from a minor's estate, for the maintenance, support, or education of the minor, the minor's spouse or children, shall be presented by the guardian of the estate and shall set forth:

(1) the manner of the guardian's appointment and the date thereof; and, where appropriate, the terms of the instrument creating the estate;

(2) the age and residence of the minor; whether his or her parents are living; the name of the person with whom he or she resides; and, if married, the name and age of his or her spouse and children;

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

(4) the circumstances of the minor, whether employed or attending school; if the minor's parents are living, the reason why the parents cannot support and educate the minor without resorting to the minor's estate;

(5) the date and amount of any previous allowances by the Court;

(6) a recommendation to the Court of the amount of the allowance the petitioner believes should be decreed; and

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

(c) *Contents of Petition. Joinder.* Attached to the petition shall be the joinder of the minor, if over fourteen years of age, and of the parents or surviving parent; or, if both parents are deceased, the joinder of the adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor.

(d) *Allowance for More than One Minor.* A single petition may be used for an order of allowance for care, maintenance and education of more than one minor or for funeral expenses of a deceased child, spouse, or indigent parent where the minors are members of the same family, have the same guardian, and substantially the same reasons in support of the petition apply to all of the minors.

(e) *Allowance from Sequestered Account.* Whenever a sequestered deposit has been created for the benefit of a minor, whether or not a guardian has been named, allowances therefrom may be upon petition of anyone interested in the welfare of the minor. Such a petition shall conform as nearly as may be to the requirements of these Rules and shall, in addition, set forth the interest of the petitioner in the matter.

Rule 12.9.1. Public Sale of Real Property. Contents of Petition.

(a) *Personal Representative.* A petition by a personal representative to sell real property at public sale, under the P.E.F. Code, shall set forth in separate paragraphs

(1) name, residence, and date of death of the decedent; whether he or she died testate or intestate, and the date of grant of letters;

(2) that the personal representative is not otherwise authorized to sell by the P.E.F. Code, or that the personal representative is not authorized or is denied the power to do so by the Will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(3) the total value of the personal estate and all of the real property, respectively, as shown in the inventory filed, including the value at which the real property to be sold was included therein;

(4) a full description of the real property to be sold, improvements thereon, by whom it is occupied;

(5) if the personal representative entered bond with the Clerk, the amount of such bond and the name of the surety;

(6) the names of all parties in interest, as heirs, devisees, legatees, or lienholders, who will be affected by the granting of the petition and the interest of each; whether any of them are minors, incompetents/ incapacitated persons, or deceased, and if so, the names and the record of the appointment of their fiduciaries;

(7) the liens and charges, if any, of record against the property to be sold;

(8) the terms of the proposed sale; and

(9) any additional facts which may aid the Court to determine that the sale is desirable for proper administration and distribution of the estate.

(b) *Trustee*—A Petition by a trustee to sell real property at public sale under the P.E.F. Code shall set forth in separate paragraphs:

(1) a statement, in substance, of the provisions of the instrument creating the trust, Particularly the powers, if any, therein given to the trustee in respect of real property;

(2) a copy of the instrument creating the trust, in the form of an exhibit, or if too lengthy, the relevant portions;

(3) the total value of the personal property and the real property, respectively, forming the corpus of the trust;

(4) the amount of the bond, if any, filed;

(5) the names of all parties interested as beneficiaries, including life tenants and remaindermen, who will be affected by the granting of the petition, whether any of them are minors, incompetents/incapacitated Persons, or deceased, and if so, the names and the record of appointment Of their fiduciaries;

(6) a full description of the real property proposed to be sold, the improvements thereon, by whom it is occupied;

(7) the reason the sale of the real property involved is necessary or desirable for the proper administration of the trust estate;

(8) the liens and charges, if any of record against the real Property to be sold;

(9) that the trustee is not otherwise authorized to sell by the P.E.F. Code, or is denied the power by the trust instrument; or that it is advisable that the sale have the effect of a judicial sale, stating the reason; and

(10) the terms of the proposed sale.

(c) *Guardian. Incapacitated Person's Estate.* A petition by a guardian of an incapacitated person's estate to sell real Property at public sale under the P.E.F. Code shall set forth in separate paragraphs:

(1) the name, age, marital status and domicile of the incapacitated person; the date of appointment of the guardian and by what court; and the amount of bond filed;

(2) the total value of the Personal estate and all of the real property, respectively, as shown in the inventory filed;

(3) a full description of the real property proposed to be sold, the improvements thereon, by whom occupied;

(4) the names of the parties in interest as heirs and/or next of kin;

(5) why the sale of the real Property involved is necessary or desirable for the administration of the incapacitated person's estate;

(6) the liens and charges, if any, of record against the property to be sold; and

(7) the terms of the proposed sale.

(d) *Guardian. Minor's Estate*—A petition by a guardian of a minor's estate to sell real property at public sale under the P.E.F. Code shall set forth in separate paragraphs:

(1) the name, age, and domicile of the minor; the date of appointment of the guardian and the amount of the bond filed;

(2) the total value of the personal estate and all of the real property, respectively, as shown in the inventory, if

filed, otherwise the value of each as received by the guardian and how and from whom received;

(3) a full description of the real property proposed to be sold, the improvements thereon, by whom occupied, and how title was acquired by the minor;

(4) the name and relationship of the person with whom the minor lives;

(5) where the proposed sale is of an undivided interest, whether the owners of the other undivided interests join in the proposed sale;

(6) why the sale of the real property involved is necessary or desirable for the administration or distribution of the minor's estate and whether the proposed sale is for the best interest of the minors estate;

(7) the lien and charges, if any, of record against the real property to be sold; and

(8) the terms of the proposed sale.

Rule 12.9.2. Notice of Public Sale of Real Property.

(a) Public notice of any proposed sale under Order of Court shall be given by advertisement one (1) time in at least one newspaper of general circulation published in the County of Somerset and in the legal publication designated by these Rules, and shall be placed under a general heading as follows:

COURT OF COMMON PLEAS OF CARBON COUNTY
ORPHANS' COURT DIVISION
PUBLIC SALE OF REAL ESTATE

IN PURSUANCE OF AN ORDER OF THE ORPHANS' COURT DIVISION, THE REAL ESTATE INDICATED BELOW WILL BE OFFERED FOR SALE AT THE TIME AND PLACE STATED. THE TERMS AND CONDITIONS OF SALE ARE OF RECORD IN THE OFFICE OF THE CLERK OF THE ORPHANS' COURT AT THE CARBON COUNTY COURTHOUSE, JIM THORPE, PENNSYLVANIA, WHERE THEY MAY BE EXAMINED BY THE PARTIES INTERESTED.

(b) the advertisement shall give the name of the decedent, trust beneficiary, minor, or incapacitated person, the municipality in which he or she resided, the place in which lies the real estate to be offered for sale, an abridged description of the real estate (including, where possible, the street and house number, and block and lot number), the improvements thereon erected, the place, date, and time of sale, the name and title of the personal representative directed to make the sale, and the name of the attorney representing the fiduciary.

(c) At least ten (10) days written notice shall be given to all non-joining parties interested (1) as heirs, devisees, legatees, or lien holders, where the property to be sold is that of a decedents estate; or (2) as heirs and/or the next of kin, where the property to be sold is that of an incapacitated person; or (3) as beneficiaries, including life tenant and remaindermen, of the trust estate where the sale is to be by a trustee; or (4) as the parents or other person maintaining the minor where the property to be sold is that of a minor; or (5) as claimants.

The written notice herein provided for shall be by personal service or by any form of mail requiring a receipt signed by the person to be notified, mailed to the last known address of the person to be notified.

Rule 12.9.3. Public Sale of Real Property. Return of Sale.

All returns of sale of real estate sold at public sale shall be in writing and sworn to and shall include:

(a) proofs of publication of the notice required by Carbon Co. O.C.R. 12.9.2.(a);

(b) when and to whom written notice was given under Carbon Co. O.C.R. 12.9.2.(c); and

(c) the name of the purchaser and the purchase price.

Rule 12.9.4. Public Sale of Real Property. Decree.

Upon return of sale under Carbon Co. O.C.R. 12.9.3, the Court may enter a Decree of Confirmation Nisi which fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or the Court may excuse the fiduciary from entering additional security; and the Decree of Confirmation Nisi so entered is FINAL unless exceptions are filed within ten (10) days of the date signed.

Rule 12.10.1. Private Sale of Real Property.

A petition of a fiduciary to sell real property at private sale shall also conform as closely as practicable to the requirements of Carbon Co. O.C.R. 12.9 with regard to a petition to sell real property at public sale by the same fiduciary and shall also be supported by the affidavits required under Pa.O.C. Rule 12.10(b).

Rule 12.10.2. Private Sale of Real Property. Public Notice of Sale. Form of Notice.

Public notice of any proposed private sale under Order of Court shall be given by advertisement one (1) time in at least one newspaper of general circulation published in the County of Carbon and in the legal publication designated by these Rules; unless excused by Order of Court, notice shall also be given by personal service or registered mail to the last known address of all nonjoining interested parties as specified in Carbon Co. O.C.R. 12.9.2(c); and shall be in the following form:

COURT OF COMMON PLEAS OF CARBON COUNTY
ORPHANS' COURT DIVISION
PRIVATE SALE OF REAL ESTATE

In the matter of the Estate of (deceased—a minor—incapacitated person). To the heirs, legatees, devisees, next of kin, and all other persons interested in said estate:

Notice is hereby given that _____ (personal representative—trustee—guardian) has filed in the office of the Clerk of the said Court a petition praying for an order of sale of the real estate of said (decedent—minor—incapacitated person) situate _____ at private sale to _____ for the sum of \$ _____ for the purposes in the petition set forth. If no exceptions are riled thereto or objections are made to granting the same, the Court will be asked to take action upon the petition on the _____ day of _____, _____, at _____ .m., in Courtroom No. _____, the Carbon County Courthouse, Jim Thorpe, Pennsylvania.

Attorney for Petitioner

Rule 12.10.4. Confirmation of Sale.

If no exceptions are filed or objections made, the Court may enter a decree:

(1) fixing the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or excusing the fiduciary from entering additional security; and

(2) confirming the sale absolutely effective immediately or as of the time the required security or additional security, if any, is approved and filed.

Rule 12.11.1. Mortgage of Real Property.

A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of Carbon Co. O.C.R. 12.10.1 with regard to a petition to sell real property at private sale by the same fiduciary.

Rule 12.11.2. Pledge, Lease, or Exchange of Real Property.

The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange, or to grant an option for the pledge, lease, or exchange of property under the P.E.F. Code, shall be governed by Carbon Co. O.C.R. 12.10.1, governing the private sale of real property by such fiduciary.

Rule 12.12.1. Inalienable Property. Public Sale.

(a) A petition to sell real property at public sale under Chapter 83 of the P.E.F. Code shall, in addition to other requirements of the statute and Supreme Court Orphans' Court Rules, set forth in separate paragraphs:

(1) How title was acquired, stating the date and place of probate of the Will or recording of the deed, as applicable;

(2) If presented by a guardian, the method, date and record of appointment, if any, or if none, identity of the petitioner stating the relationship of the petitioner to the person owning the property;

(3) A full description of the real property, its improvements, by whom it is occupied, its rental income, if any, and the liens and charges to which it is subject;

(4) The interest of the petitioner, if any;

(5) A recital and history of the trust, if any; the relevant provisions of the Will or deed pertaining to the real property to be sold; the interest of a minor, if any; and the names of other parties interested in the real estate and the nature of their interest;

(6) If for the benefit of a minor, the age of the minor, the names of the minor's next of kin and that notice has been given to them of the presentation of the petition;

(7) The names of all parties in interest, their addresses, the nature and extent of their interests, stating which, if any, are minors or incapacitated persons, and giving the names and record of appointment of their guardians, if any,

(8) That the purpose of the proceeding is to obtain a decree stating that the title transferred to the purchaser will be indefeasible by any person ascertained or unascertained, or by any class of persons mentioned in the petition or decree having a present or expectant interest in the premises, and unprejudiced by any error in the proceedings of the court;

(9) Sufficient facts to enable the court to determine whether the proposed sale will be to the interest and

advantage of the parties, and whether the proposed sale may be made without prejudice to any trust, charity, or purpose for which the real property is held, and without violation of any laws which may confer an immunity or exemption from sale or alienation; and

(10) The names of any parties who do not voluntarily appear.

(b) The petitioner shall attach as exhibits the consents to the sale signed by those parties in interest who consent, and the notice which was given to those parties who do not consent or voluntarily appear.

(c) If all parties having an interest do not voluntarily appear as petitioners or respondents, petitioner shall request issuance of a rule to show cause directed to all parties who have not appeared.

(d) The practice and procedure with respect to notice, confirmation and entry of security shall conform to the appropriate provisions of the P.E.F. Code and Carbon Co. O.C.R. 12.9.2, 12.9.3 and 12.9.4.

Rule 12.12.3. Inalienable Property. Private Sale.

(a) A petition to sell real property at private sale under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

(1) The information required under Carbon Co. O.C.R. 12.12.1(a) and (b), to the extent applicable;

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

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

(b) In addition to the exhibits referred to in Carbon Co. O.C.R. 12.12.1(b), the petition shall have attached affidavits of two (2) real estate appraisers setting forth the information required by Pa.O.C.R. 12.10(b).

(c) If all parties having an interest do not voluntarily appear as petitioners or respondents, petitioners shall request issuance of a rule to show cause directed to all parties who have not appeared.

(d) The court, in the decree approving or confirming the sale, will fix the amount of security which the fiduciary shall be required to enter.

Rule 12.12.4. Inalienable Property. Mortgage.

(a) *Contents of Petition.* A petition by a fiduciary to mortgage real property, under Chapter 83 of the P.E.F. Code, shall conform as closely as practicable to the requirements of Carbon Co. O.C.R. 12.9 with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed loan; and shall provide sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(b) *Exhibits. Security.* The exhibits required by Carbon Co. O.C.R. 12.12.3(b) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a rule to show cause will be granted directed to all parties who have not appeared, as provided by the P.E.F. Code. Security shall be fixed as provided by Rule 12.12.3(d).

RULE 14—GUARDIANSHIP OF INCAPACITATED PERSONS

Rule 14.1. Form of Preliminary Decree.

(a) Form of Preliminary Decree. Each Petition for Adjudication of Incapacity shall have attached thereto a Preliminary Decree for Guardianship substantially in the following form:

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

IN RE: _____, No. _____
An Alleged Incapacitated Person

PRELIMINARY DECREE FOR GUARDIANSHIP

AND NOW, this _____ day of _____, _____, to judicially resolve Petitioner's request for the appointment of guardianship, the Court hereby:

ORDERS and DECREES the following:

- 1. That a Hearing be held on the attached Petition on the _____ day of _____, _____, at _____ M. in Courtroom No. _____, Carbon County Courthouse, Jim Thorpe, Pennsylvania.
2. The Court directs the issuance of an appropriate citation with Rule to Show Cause why the above-captioned individual should not be adjudged an Incapacitated Person and why the Court should not appoint appropriate guardians.
3. Petitioner shall request a guardianship of the following nature: a limited guardianship of the person, a plenary guardianship of the estate.
4. Petitioner shall cause to be served (by personal service) the Rule to show cause and Petition with attached Notice upon the alleged incapacitated person at least twenty (20) days prior to the Court hearing.
5. At least 20 days notice of the Petition and Hearing shall be given by personal service or certified mail to all persons who are sui juris and would be entitled to share in the estate of the alleged incapacitated person's estate if he/she died intestate at the time of finding incompetency.
6. Petitioner shall notify the Court, in writing, at least seven (7) days prior to the Court hearing if counsel has NOT been retained by or on behalf of the alleged incapacitated person.
7. The alleged incapacitated person shall be present at the Court hearing unless it is established that her physical or mental condition would be harmed by her presence, or it is impossible for her to be present because of her absence from the Commonwealth.

BY THE COURT:

(b) Form of Rule to show cause. Every Petition for Adjudication of Incompetency shall have attached to the Preliminary Decree provided in subsection (a) of this rule a Rule to Show Cause or Citation in the form prescribed by Pa.O.C.R. No. 14.5.

Rule 14.2. Testimony Regarding Incapacity or Incompetency, Deposition.

Expert testimony regarding incapacity or incompetency may be presented by deposition in the following form:

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

IN RE: _____ :
An Alleged : NO. _____
Incapacitated Person :

DEPOSITION BY INDIVIDUAL QUALIFIED IN EVALUATION OF INCAPACITATED PERSON

The deposition of _____, a witness in this matter, on the _____ day of _____, at _____, Pennsylvania.

- 1. What is your name and your professional address?
A. My name is _____; my professional address is _____.
2. Please describe your education, training, and background with particular emphasis on your expertise in evaluating individuals with incapacities. If you prefer to do so, please attach a curriculum vitae to those interrogatories that details this information.

A. (Cross out that answer that does not apply.)

(a) My curriculum vitae detailing this information is attached or

(b) I received my college degree at _____ and my post graduate training at _____, and I have practiced _____ (e.g. medicine, psychiatry, psychology, gerontological social work etc.) since 19 ____ . My special qualifications and training with respect to evaluating persons with incapacities consist of _____

3. In what states are you licensed to practice medicine?

A. I am licensed to practice medicine in the following states: _____

4. In your capacity as (e.g. physician, psychologist, social worker, etc.) have you had the opportunity to meet with, examine, speak with and otherwise become acquainted with _____ (name) and if so, upon what occasions and in what fashion have you been able to do so?

A. I first became acquainted with _____ (name) the month of _____, _____, when she/he was brought to my attention by means of _____. I have since that time (visited/spoken with/examined/treated) her/him on _____ other occasions with an average frequency of _____ times per _____ day/week/month/year.

5. To a reasonable degree of medical certainty, do you have an opinion as to whether the ability of _____ (name) to receive and evaluate information effectively and to communicate decisions is in any way impaired to such significant extent that she/he is:

- (a) partially unable to manage her/his financial resources,
- or
- (b) totally unable to manage her/his financial resources.

A. _____

6. To a reasonable degree of medical certainty, do you have an opinion as to whether the ability of _____ (name) to receive and evaluate information effectively and to communicate decisions is in any way impaired to such significant extent that she/he is:

- (a) partially unable to meet essential requirements for her/his physical health and safety, or
- (b) totally unable to meet essential requirements for her/his physical health and safety?

A. _____

7. Please describe the type and severity of any impairments of _____ (name) are as follows:

Impairment	—Check one—			
	None	Mild	Moderate	Severe
a)	[]	[]	[]	[]
b)	[]	[]	[]	[]
c)	[]	[]	[]	[]
d)	[]	[]	[]	[]
e)	[]	[]	[]	[]
f)	[]	[]	[]	[]
g)	[]	[]	[]	[]
h)	[]	[]	[]	[]

8. To a reasonable degree of medical certainty, can you express an opinion as to whether _____ (name) is partially or totally unable to manage her/his financial resources?

A. The ability of _____ (name) to manage her/his financial resources is impaired (not at all, partially, totally) as follows:

9. To a reasonable degree of medical certainty, can you express an opinion as to whether _____ (name) is able to meet essential requirements for her/his physical health and safety?

A. The ability of _____ (name) to meet essential requirements for her/his physical health and safety is impaired (not all, partially, totally) as follows:

10. Can you please evaluate the present condition of _____ (name) with respect to incapacities of the type alleged in the Petition. In particular, could you please comment on the nature and extent of the alleged incapacities and disabilities and also, insofar as you are able, the mental, emotional and physical condition of _____ (name), her/his adaptive behavior, and her/his social skills?

A. Based upon my education, training and experience, as well as my acquaintance with _____ (name) as stated above, it is my opinion that her/his incapacities and disabilities are

 _____ Her/His mental condition is:

Her/His emotional and physical condition are:

11. Is the condition of _____ (name) such as would make her/him susceptible to being taken advantage of by unscrupulous or designing persons?

A. Her/His adaptive behavior is _____

B. Her/His social skills are _____

12. What recommendations would you make concerning services necessary to meet the essential requirements for the physical health and safety of _____ (name).

A. I would recommend that her/his physical health and safety be protected by _____

13. What recommendations would you make concerning management of the financial resources of _____ (name)?

A. I would recommend _____

14. What recommendations would you make concerning the development or regaining of physical or mental abilities of _____ (name)?

A. I would recommend the following _____

15. What types of assistance do you think are required by _____ (name)?

A. I believe she/he needs assistance with _____

16. Why is it that no less restrictive alternatives would be appropriate?

A. Less restrictive alternatives would not be appropriate because _____

17. What is the probability that the extent of incapacities of _____ (name) may significantly lessen or change?

A. In my judgment, and based upon my training, experience and acquaintance with _____ (name) I believe the probability that her/his incapacities may significantly lessen or change is: _____

18. Would the physical or mental condition of _____ (name) be harmed by her/his presence in open Court?

A. I believe that the presence of _____ (name) in open Court would (not) be harmful to her/him because _____

NOTE: Pennsylvania law (20 Pa.C.S. § 5511(a)(1) requires that the alleged incapacitated person must be present at the hearing unless a physician or licensed psychologist provides by testimony or statement, an opinion that her/his physical or mental condition would be harmed by her/his presence.

VERIFICATION

I, _____ verify that the statements made in the foregoing Deposition are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: _____
 Signature of Deponent

Rule 14.3. Accounts of Guardians.

On or before the first day of March of each year, every guardian of the estate of an incapacitated or incompetent person shall file with the Clerk of the Orphans' Court an account of such guardian's administration of the estate during the preceding calendar year, said account to be substantially in the following form:

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

IN RE: _____ : NO. _____

PERIODIC REPORT
FROM _____, _____ TO _____,
OF THE GUARDIAN OF THE ESTATE

1) I am the *limited/plenary* (circle one) guardian of the estate of my ward, named above, and my address, including zip code, is:

My telephone number at work is () _____ and my telephone number at home is () _____.

2) I was appointed guardian by Order of Court dated _____ which was/was not (circle one) modified by Court Order(s) dated _____.

3) My initial Inventory was filed on _____ and listed a total estate value of \$ _____
The Inventory listed a total monthly income of \$ _____ comprised of the following:

4) At the beginning date of this reporting period, my initial balance on hand was \$ _____.

5) During this reporting period, the following reflects all sources of income (other than social security) received by me for my ward: (Add additional pages if needed)

	<i>Date Received</i>	<i>Source of Income</i>	<i>Amount</i>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
TOTAL—			_____

6) During this reporting period, the following reflects all payments I have made for my ward: (Add additional pages if needed):

	<i>Date</i>	<i>To Whom Paid</i>	<i>Reason for Payment</i>	<i>Amount</i>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
TOTAL—				_____

7) The present principal assets of my ward are:

	<i>Description of Asset</i>	<i>Present Value</i>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____

8) The present amount and sources of income for my ward are:

	<i>Source of Income</i> <i>(Indicate whether monthly, quarterly, annually)</i>	<i>Amount of Income</i>
1.	_____	_____
2.	_____	_____
3.	_____	_____

Source of Income
(Indicate whether monthly, quarterly, annually)

Amount of Income

- 4. _____
- 5. _____
- 6. _____

9) The regular monthly expenses of my ward which I pay are:

	<i>To Whom Paid</i>	<i>Amount</i>
	(annually)	

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

10) I have/have not (circle one) petitioned the Court for permission to invade principal to meet the needs of my ward. (If applicable) The following expenses of my ward have been paid from principal:

	<i>To Whom Paid</i>	<i>Purpose</i>	<i>Amount</i>
--	---------------------	----------------	---------------

- | | | | |
|----|-------|-------|-------|
| 1. | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ |

11) I have/have not (circle one) paid myself compensation for services I rendered as guardian.

The amount I paid myself totaled \$ _____ and was calculated at the following rate: \$ _____ per week/month (circle one).

12) Circle the correct response and complete, if appropriate.

There will be no need for extraordinary expenditures on behalf of my ward in the next twelve (12) months.

or

There will be a need for extraordinary expenditures on behalf of my ward in the next twelve (12) months because:

13) Circle the correct response and complete, if appropriate.

- A. My ward receives monthly social security benefits directly.
- B. I am the designated payee to receive my ward's social security benefits.
- C. The designated payee of my ward's social security benefits is _____
 whose address is _____
 and is/is not (circle one) related to my ward as _____ (insert relationship).

I certify under the penalties of perjury that the information contained in this report is true and correct to the best of my knowledge, information and belief. I further certify that I have sent a copy of this report to all those parties in interest listed in the original Petition to declare my ward incapacitated and that I have added a notice to those parties in the form below.

Date: _____

Signature of Guardian

NOTICE

Enclosed is a copy of my periodic Report as Guardian of the Estate. If you have any questions regarding this report, please contact me. If you have any Objections to it, you are advised to prepare your Objections, in writing, make

reference to the name of the incapacitated person and the court file number, and, within thirty (30) days of receiving this Notice, mail or deliver the Objections to me at the address listed in my Report *and* to the

Orphans' Court Auditor
Office of the Register of Wills
County Courthouse
Jim Thorpe, PA 18229

Guardian of the Estate

Rule 14.4. Annual Report of Guardian of Person of Incapacitated Person.

The annual report of the guardian of the person of an incompetent or incapacitated person required by 20 PA.C.S.A. § 5521(c) shall be in the following form:

[Caption]

GUARDIAN OF THE PERSON—ANNUAL REPORT
(20 PA.C.S.A. § 5521(c))

1. Current address of the incapacitated person.
2. Describe the type of facility where the incapacitated person presently lives and the type of living arrangements:
3. Do you contemplate a change of placement in the near future? If yes, state where and the reason.
4. Describe any major medical or mental problems of the incapacitated person:
5. Describe what social and recreational activities that are enjoyed by the incapacitate person:
6. What medical and psychological services are provided to the incapacitated person?
7. Describe any hospitalizations or medical treatment since the date of your appointment as guardian or since the date of your last report:
8. How often do you visit the incapacitated person?
9. On the average, how long are your visits?
10. Who else visits the incapacitated person and how frequently?
11. Are there any needs that are not being provided for? If yes, state what and why,
12. Should the guardianship continue, be terminated, or modified? If yes, please specify the reasons for your opinion.

Date: _____

Signature of Guardian

RULE 15—ADOPTIONS

Rule 15.1. Local Rules.

The practice and procedure with respect to adoptions shall be as provided by Act of Assembly and to the extent not inconsistent therewith shall conform with the pertinent provisions of these Rules or special order of the Orphans' Court, or, in the absence thereof, with the provisions of Pa.O.C.R. 15.

Rule 15.1.1. Local Practice and Procedure.

Practice and procedure with respect to all proceedings under the Adoption Act, 23 Pa.C.S.A § 2101-2910, shall be as provided by this local Rule 15, and, also, in accordance with the provisions of Pa.O.C.R. 15, to the extent the latter is not inconsistent with the provisions of the current Adoption Act, 23 Pa.C.S.A. § 2101-2910 (the "Adoption Act").

Rule 15.1.2. Exhibits.

Appended to all petitions for voluntary relinquishment, involuntary termination and adoption shall be the following:

(a) A birth certificate or certificate of registration of birth of the subject child which contains the child's name, sex, date of birth and parents' names.

(1) Whenever a birth certificate has been filed with the Clerk in a companion proceeding, reference to the companion case term and number shall be sufficient.

(2) A notice of birth registration is not an acceptable substitute for a certified copy of a birth certificate or a certification of registration of birth.

(b) When required by the Court, certified copies of marriage licenses regarding the biological parent or parents of the subject child and the proposed adoptive parents, as proof of the following:

(1) The marital status of the biological mother at the birth of the subject child and for one year prior thereto.

(2) The marriage of the proposed adoptive parents to each other.

Rule 15.2.1. Voluntary Relinquishment to Agency.

(a) *Petition.*

A Petition under Section 2501 of the Adoption Act to relinquish parental rights and duties with respect to a child who has been in the care of an Agency shall be in a form approved by the court, and shall include the following allegations:

(1) The name, address, age, racial background and religious affiliation of each petitioner.

(2) The information required in subparagraph (1) as to any parent who is not a petitioner, or the reason why such information is unavailable.

(3) The martial status of the mother as of the time of the birth of the child and during one year prior thereto,

and, if the mother was married, the name of her husband or husbands, and her maiden name.

(4) The name, age, date of birth, racial background, sex and religious affiliation of the child.

(5) The name and address of the Agency having care of the child.

(6) The date when the child was placed with the Agency and the circumstances surrounding the placement.

(7) When the child's parents are not married to each other, whether they intend to marry each other.

(8) The reason for seeking relinquishment.

(9) That each petitioner understands the petition, has considered the alternatives, and has executed the petition voluntarily to promote what the petitioner believes to be in the petitioner's and the child's best interests.

(10) Whether either natural parent of the child is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C.A. '501, et. seq.).

(b) *Exhibits.*

The petition shall have attached to it the following exhibits, in addition to those specified in Rule 15.1.2:

(1) The joinder of a parent who is not a petitioner, if obtainable.

(2) If the other parent is deceased, a certified copy of the death certificate.

(3) The joinder of the Agency having care of the child and its consent to accept custody of the child until such time as the child is adopted. The joinder of the Agency shall be executed and acknowledged by an official authorized to do so, and proof of such authority shall be kept on file with the court (see Rule 15.8.1, *infra.*)

(4) A proposed decree in a form approved by the court.

(c) *Disposition of Petition.*

(1) The petition shall be filed with the Clerk, who shall place the matter on the next available hearing list, unless otherwise directed by the court.

(2) Absent exceptional circumstances, or unless the other parent is deceased, the court will not entertain a petition by one parent where the rights of the other parent have not been previously terminated or cannot be terminated at the hearing.

(3) Information concerning any proposed adoption of the child who is the subject of the petition shall be made available to the court at the hearing.

(d) *Notice and Hearing.*

(1) If a parent has not relinquished his or her rights and duties in and to the child, or joined in the other parent's petition hereunder, then notice of the hearing, together with a copy of the petition, shall be served upon the non-petitioning/non-joining parent.

(2) Unless excused by the court, at or prior to the hearing, each petitioner and each person whose consent or joinder is attached to the petition shall be examined under oath at the hearing.

Rule 15.3.1. Voluntary Relinquishment to Adult Intending to Adopt Child.

(a) *Petition.*

A Petition under Section 2502 of the Adoption Act to relinquish parental rights with respect to a child who has

been in the exclusive care of an adult or adults who have filed a report of Intention to Adopt shall be in a form approved by the Court, and shall include the allegations required under subparagraphs (1), (2), (3), (4), (7), (8), (9), and (10) of Rule 15.2.1.(a), and

(1) The date when the Report of Intention to Adopt was filed.

(2) The date when the child was placed with the adult or adults and the circumstances surrounding the placement.

(b) *Exhibits.*

The petition shall have attached to it the following exhibits, in addition to those specified in Rule 15.1.2:

(1) The joinder of a parent who is not a petitioner, if obtainable.

(2) If the other parent is deceased, a certified copy of the death certificate.

(3) The separate consent of the adult or adults to accept custody of the child.

(4) A proposed decree in a form approved by the Court.

(c) *Disposition of the Petition.*

(1) The petition shall be filed with the Clerk, who shall place the matter on the next available hearing list, unless otherwise directed by the Court.

(2) Absent exceptional circumstances, or unless the other parent is deceased, the Court will not entertain a petition by one parent where the rights of the other parent have not been previously terminated or cannot be terminated at the hearing.

(3) Absent exceptional circumstances, a petition for voluntary relinquishment to an adult intending to adopt will not be entertained by the Court unless a petition for adoption under Section 2701 of the Adoption Act with respect to the subject child has also been filed.

(d) *Notice and Hearing.*

(1) If a parent has not relinquished his or her right in the child or joined in the petition hereunder, then notice of the hearing on a parent's petition to voluntarily relinquish rights, together with a copy of the petition, shall be served upon such non-petitioning/non-joining parent.

(2) Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the court.

Rule 15.3.2. Alternative Procedure for Relinquishment.

(a) *Petition to Confirm Consent.*

A petition under Section 2504(a) of the Adoption Act shall be in a form approved by the court, and shall include the following allegations:

(1) The name, address and standing of the petitioner or petitioners, and the date on which the report of intention to adopt and/or the petition for adoption was filed.

(2) The name, age, address and current marital status of the natural parent or parents.

(3) The name, sex, date of birth and the child proposed to be adopted, and the date on which the child was placed with the proposed adoptive parents.

(4) The date on which the petition or petitions for voluntary relinquishment were filed.

(5) The date of the execution of the consent or consents to the adoption by the natural parent or parents.

(6) That a period of forty (40) days has elapsed since the execution of the consent to the adoption and that the consenting parent has not filed or proceeded with a petition for voluntary relinquishment of parental rights as provided for in Sections 2501 and 2502 of the Adoption Act.

(7) Whether either natural parent of the child is entitled to the benefits of the Soldiers and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C.A. § 501, et seq.).

(b) *Exhibits to Petition to Confirm Consent.*

The petition shall have attached to it the following exhibits, in addition to those specified in Carbon Co. O.C.R. 15.1.2:

(1) The original consent of the natural parent in the form prescribed by Section 2711(d)(l) and (2) of the Adoption Act.

(2) A proposed decree in a form approved by the court.

(c) *Petition for Termination of Parental Rights of Non-Consenting Putative Father*

A petition under Section 2504(c) of the Adoption Act shall be in a form approved by the court, and shall include the following allegations:

(1) The name, address and standing of the petitioner or petitioners, and the dates on which the report of intention to adopt and/or the petition for adoption was filed.

(2) The name, age, address and marital status of the biological parents as of the birth of the child and during one year prior thereto.

(3) The name, sex, date of birth of the proposed adoptee and the date on which the child was placed with the proposed adoptive parents.

(4) That the biological mother of the adoptee was unmarried at the child's birth.

(5) That the putative father has refused to execute a written consent to the adoption of the proposed adoptee and has not filed an acknowledgment of paternity.

(6) Whether the putative father is entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C.A. § 501, et seq.).

(d) *Exhibits to Petition for Termination of Parental Rights of Non-Consenting Putative Father*

The petition shall have attached to it the following exhibits, in addition to those specified in Carbon Co. O.C.R. 15.1.2:

(1) A birth certificate of the proposed adoptee which indicates that no acknowledgment or claim of paternity has been filed.

(2) A proposed decree in a form approved by the Court.

(e) *Disposition of Petitions Under Section 2504.*

(1) The petition shall be filed with the Clerk, who shall place the matter on the next available hearing list, unless otherwise directed by the court.

(2) Absent exceptional circumstances, the Court will not entertain a petition to confirm the consent of only one biological parent, unless the other parent is the petitioner or the spouse of a petitioner in an adoption pending in this court; or the other parent is a putative father who (i)

has refused to execute a consent, and has not filed an acknowledgment of paternity, or (ii) is deceased.

(3) Absent exceptional circumstances, a petition to confirm consent will not be entertained by the court unless petition for adoption under Section 2701 of the Adoption Act has been filed with this court.

(f) *Notice and Hearing.*

(1) Notice of the hearing on the petition to confirm consent, in the form prescribed by Section 2513(b) of the Adoption Act, together with a copy of the petition omitting all references to the proposed adoptive parents, shall be served upon the natural parent or parents whose consent is sought to be confirmed, the other parent, a putative father whose rights are sought to be terminated, and to the parents or guardian of a consenting parent who has not reached 18 years of age.

(2) Each petitioner shall be examined under oath at the hearing.

Rule 15.4.1. Involuntary Termination of Parental Rights.

(a) *Petition.*

A petition for involuntary termination of parental rights under Sections 2511 and 2512 of the Adoption Act shall be in the form set forth in Carbon Co. O.C.R. 15.4.2.

(b) *Exhibits.*

The petition shall have attached to it the following exhibits, in addition to those specified in Carbon Co. O.C.R. 15.1.2:

(1) The joinder of the agency having care of the child and its consent to accept custody of the child until such time as the child is adopted. The joinder shall satisfy the requirements of Carbon Co. O.C.R. 15.2.1(b)(3).

(2) A proposed decree nisi in the form set forth in Carbon Co. O.C.R. 15.4.3.

(c) *Disposition of Petition.*

(1) The petition shall be filed with the Clerk and a copy thereof shall be served upon the respondent. This shall be in addition to the notice of hearing required by Rule 15.4.1(e).

(2) At the time when the petition is filed with the Clerk, the matter shall be placed on the next available hearing list by the Clerk. However, the matter shall not be heard before the time for filing responsive pleadings has elapsed (O.C. Rule 3.2.2). Notice thereof shall be given as required by Carbon Co. O.C.R. 15.4.1(e).

(3) Absent exceptional circumstances, or unless the other parent is deceased, the court will not entertain a petition for involuntary termination of parental rights riled by an agency or an adult intending to adopt where the parental rights of the other parent have not been previously terminated, or cannot be terminated at the hearing.

(4) If the court is satisfied that, after reasonable investigation, the identity of a natural parent is unknown, no notice under this Rule will be necessary with respect to such parent.

(5) To establish a "reasonable investigation" a "Petition for Leave to Forego Involuntary Termination Proceedings Regarding the Unknown Parent of (name of child)" shall be presented to the Motions Judge and shall contain the following allegations:

(i) the circumstances surrounding the conception of the child including the approximate date and location;

(ii) all of the information regarding the unknown parent that is known by the other natural parent or petitioner; and

(iii) the efforts made by the identical natural parent or petitioner, by anyone acting on behalf of the identified parent, by petitioning adoptive parents and/or anyone acting on their behalf, to attempt to identify, locate, or contact the unknown natural parent based on the information provided in subsections (i) and (ii) above; or

(iv) the reasons why any of the above information cannot be provided.

(6) if a natural parent is not the petitioner there shall be attached to the petition as an exhibit:

(i) the consent and joinder of the identified natural parent;

(ii) a certified copy of the death certificate of the identified natural parent; or

(iii) the affidavit of the identified natural parent that the allegations in the petition are true and correct and that the identity and whereabouts of the other natural parent are unknown to the arrant.

(7) If the requirements of subparagraph (6) above cannot be satisfied, the petition shall contain an allegation explaining the reasons therefor.

(d) *Representation for Minors.*

(1) Counsel.

When a petition for involuntary termination is being contested by one or both parents, counsel for the petitioners shall file with the petition or present, to the Motions

Judge, prior to the scheduled hearing, a motion for the appointment of counsel to represent the minor child or children, together with a proposed order in a form approved by the court.

(2) *Guardian Ad Litem.*

When the termination of the parental rights of a minor parent is sought, the court, if it finds that the minor parent is not adequately represented, may appoint a guardian ad litem to represent the interests of the minor parent.

(e) *Notice and Hearing.*

(1) Notice of the hearing on the petition for involuntary termination of parental rights, in the form and manner prescribed by Section 2513 of the Adoption Act, shall be served upon the following persons:

(i) the parent or parents whose rights are sought to be terminated; and

(ii) the parent or parents and the guardian ad litem, if any, of a natural parent who is under the age of 18 years.

(2) Each petitioner shall be examined under oath at the hearing unless excused by the court.

(3) The notice of hearing required in this Rule shall be in addition to the requirement of service of the petition in accordance with Carbon Co. O.C.R. 15.4.1(c)(1).

(f) *Decrees of Termination of Parental Rights; Form.*

When a petition for involuntary termination of parental rights is uncontested by the respondent, the court, after hearing, shall issue an order setting forth its findings regarding the grounds for involuntary termination of parental rights and either granting or denying the termination. All such decrees of termination of parental rights in uncontested matters shall be final orders.

Rule 15.4.2. Form of Petition for Involuntary Termination.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION
IMPORTANT NOTICE

PETITION FOR INVOLUNTARY TERMINATION
OF PARENTAL RIGHTS

IN RE: _____

No. _____

To: _____,
the parents of _____,

A petition has been filed asking the Court to put an end to all rights you have to your child [insert name of child]. A copy of the petition is attached.

The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. _____ in the Carbon County Courthouse, at Jim Thorpe, Pennsylvania, on _____, _____, at _____ o'clock ____ .m.

RIGHTS TO YOUR CHILD(REN)—You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child(ren) may be ended by the Court without your being present, which means that you will lose all rights to custody, visitation, communication with your child(ren). If termination is granted you will receive no notice of future legal proceedings concerning your child(ren).

LEGAL REPRESENTATION—You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below to find out where you can get legal help.

LEGAL SERVICES OF NORTHEASTERN PENNSYLVANIA, INC.
122 Iron Street
Lehighton, PA 18235
(610) 377-5400

If you have contacted Legal Services and still have not been able to obtain a lawyer, you can still appear at the hearing to request the appointment of a lawyer. If you are indigent, the Court will appoint a lawyer to represent you.

RIGHTS IF YOU ARE INCARCERATED—If you cannot attend the hearing because you are or will be in jail, and want a lawyer, or want to appear at the hearing, you must write within ten (10) days of the receipt of this notice to:

PRESIDENT JUDGE
CARBON COUNTY COURTHOUSE
JIM THORPE, PA 18229

Name of Attorney: _____
Address: _____

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

IN RE: ADOPTION OF _____ : No. _____
_____ :

PETITION FOR INVOLUNTARY TERMINATION
OF PARENTAL RIGHTS
(Section 2512 of the Adoption Act)

AND NOW, this _____ day of _____, _____, comes the Petitioner(s), and sets forth the following facts:

Names of Petitioner(s) _____

Describe the relationship of the Petitioner(s) to the child:

3. Regarding the child(ren), provide the following information:

<i>Name</i>	<i>Age</i>	<i>DOB</i>	<i>Race</i>	<i>Sex</i>	<i>Religious Affiliation</i>

4. Regarding the parent(s) who are the subject of the Petition, provide the following:

<i>Name</i>	<i>Age</i>	<i>DOB</i>	<i>Race</i>	<i>Sex</i>	<i>Religious Affiliation</i>

5. Was the mother married at any time during one year prior to the birth of the child(ren)?

Yes _____ No _____

If yes, provide the name of each husband and mother's maiden name:

6. The Petitioner(s) is authorized to seek termination pursuant to Section 2512 of the Adoption Act on the basis that the petitioner(s) is/are (check the applicable status):

- _____ a parent who seeks termination with respect to the other parent;
- _____ an agency;
- _____ an individual having custody or standing in loco parentis to the child, who has filed a report of intention to adopt under Section 2531 of the Adoption Act;
- _____ an attorney representing a child or a guardian ad litem representing a child who has been adjudicated dependent under 42 Pa.C.S. § 6431(c) (relating to adjudication).

7. The grounds for termination of parental rights upon which the petitioner(s) rely are: (check applicable grounds)

- _____ the parent by conduct continuing for a period of at least (6) months immediately preceding the filing of the petition either has evidenced settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties;
- _____ the repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent;
- _____ the parent is the presumptive but not the natural father of the child;
- _____ the child is in the custody of an agency, having been found under such circumstances that the identity or whereabouts of the parent is unknown and cannot be ascertained by diligent search and the parent does not claim the child within three months after the child is found;
- _____ the child has been removed from the care of the parent by the Court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance

reasonably available to the parent are not likely to remedy the conditions. Which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child;

_____ in the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, has failed for a period of four months immediately preceding the filing of the petition to make reasonable efforts to maintain substantial and continuing contact with the child and has failed during the same four month period to provide substantial financial support for the child;

_____ the parent is the father of a child who was conceived as a result of a rape;

_____ the child has been removed from the care of the parent by the Court or under a voluntary agreement with an agency, twelve (12) months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

8. The facts which support each of the grounds checked above, and which establish that termination of parental rights would be in the best interests of the child, are set forth as follows (provide a statement of the facts underlying your petition, or a report from Children and Youth Services.)

9. If the petitioner(s) is not an agency, has a Petition for Adoption been filed or is adoption presently contemplated?

Yes _____ No _____

Is/are the child(ren) placed in the care of the petitioner(s)?

Yes _____ No _____

If yes, give the date of placement: _____

10. The petitioner(s) will assume custody of the child(ren) if this petition is granted.

11. If the father of the child(ren) has not been identified, has a claim of paternity been filed?

Yes _____ No _____

12. Is either parent entitled to benefits under the Soldiers' and Sailors' Civil Relief Act (50 U.S.C.A. § 501, et seq)?

Yes _____ No _____

13. The following exhibits are attached:

- _____ birth certificate(s) of child(ren)
- _____ consent of parent for petitioner under age eighteen (18)
- _____ statement of facts or report from Children and Youth Services

VERIFICATION:

I, _____ (We) verify that the statements made in this Petition are true and correct. I understand that statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

WHEREFORE, the Petitioner(s) request(s) that a hearing be scheduled and a rule to show cause issued to the respondent(s) directing them to appear before the Court at a day and time scheduled.

Attorney for Petitioner

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

AFFIDAVIT OF SEARCH
(To be filed if parents' whereabouts are unknown)

IN RE: Adoption of _____ : No. _____
_____ :

I hereby certify that I have made the following efforts to locate the parent(s):

1. Searched file for addresses (Children and Youth Services).
2. Contacted or searched (check those that are applicable):

- _____ Known relatives and friends
- _____ Phone Book
- _____ Post Office
- _____ Prisons, State and Local
- _____ Clerk of Courts
- _____ CHRI

3. Publication

I verify that the statements herein are true and correct and subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Rule 15.4.3. Form of Decree Nisi and Final Decree.

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

IN RE: Adoption of _____ : No. _____
: Docket _____ Page _____
: Filing Fee _____
(Adoptee's name as on birth certificate) Attorney _____

DECREE NISI
(Involuntary Termination of Parental Rights)

AND, NOW, this _____ day of _____, after review of the record and after an evidentiary hearing following due notice, the Court makes the following findings and judicial determinations:

- 1. Petitioner(s) has/have established a legal basis for terminating the parental rights of _____, hereinafter referred to as Respondent(s).
- 2. The following subsection(s) of 23 Pa.C.S.A Section 2511 establish the basis for terminating the parental rights of Respondent(s).

Check the applicable subsections:

- _____ a. The parent(s) by conduct continuing for a period of at least six months immediately preceding the filing of the Petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.
- _____ b. The repeated and continued incapacity, abuse, neglect or refusal of the parent(s) has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being, and the conditions and causes of the incapability, abuse, neglect or refusal cannot or will not be remedied by the parent(s).
- _____ c. The parent is the presumptive but not the natural father of the child.
- _____ d. The child is in the custody of an agency, having been found under such circumstances that the identity or whereabouts of the parent(s) is/are unknown and cannot be ascertained by diligent search, and the parent(s) does/do not claim the child within three months after the child is found.
- _____ e. The child has been removed from the care of the parent(s) by the Court or under a voluntary agreement with an agency for a period of at least six (6) months, the conditions which led to the removal or placement of the child continue to exist, the parent(s) cannot or will not remedy those conditions within a reasonable period of time, the service or assistance reasonably available to the parent(s) are not likely to remedy the condition which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.
- _____ f. In the case of a newborn child, the parent knows or has reason to know of the child's birth, does not reside with the child, has not married the child's other parent, has failed for a period of four months immediately preceding the filing of the Petition to make reasonable efforts to maintain substantial -and continuing contact with the child and has failed during the same four-month period to provide substantial financial support for the child.
- _____ g. The parent is the father of a child who was conceived as a result of a rape.

3. The decision of the Court is based on the following findings of fact:

4. It is hereby Ordered, Adjudged and Decreed that the parental rights of the above-mentioned Respondent(s) to adoptee are forever terminated.

5. The adoption of ADOPTEE may continue without further notice to or consent of the above-mentioned Respondent(s).

6. The custody of ADOPTEE is hereby transferred to

- a. the adopting parent(s) _____
- b. an approved Agency and such Agency is hereby authorized to give consent to the adoption of ADOPTEE.

Unless exceptions are filed with the Clerk of the Orphans' Court within ten (10) days after the entry of this decree, the decree will be made final.

BY THE COURT:

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

IN RE: ADOPTION OF _____ : No. _____
_____ : _____

FINAL DECREE

AND NOW, this _____ day of _____, _____, whereas a Decree Nisi was entered in the within matter, and [no exceptions having been filed] or [exceptions having been filed thereto, and after hearing, the said exceptions are hereby dismissed], it is hereby ORDERED and DECREED that a final decree be entered and that all parental rights and duties of _____ are terminated forever. The adoption of the said child may be decreed without further consent of or notice to the aforesaid parent.

In accordance with 23 Pa.C.S.A. § 2905(d), said parent is advised of the continuing right to place and update personal and medical history information, whether or not the medical condition is in existence or discoverable at this time, on file with the Court and with the Department of Welfare.

BY THE COURT:

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

IN RE: ADOPTION OF _____ : No. _____
_____ : _____

NOTICE OF RIGHT OF APPEAL

A Final Decree has been entered in the above-captioned matter, permanently terminating your parental rights and obligations with regard to the following child or children: The adoption of said child or children may proceed without your further consent or notice.

You are hereby advised of your right to take an appeal from the Final Decree. Pursuant to Pa.R.A.P. 903, notice of appeal must be filed within thirty (30) days after the entry of the Final Decree.

Rule 15.8.1. Registration with the Court of Authorized Persons.

Any agency licensed by the Department of Public Welfare which proposes to accept custody of any child for purposes of relinquishment or adoption under these Rules, shall file with the Clerk a copy of the resolution, certified by the secretary of the agency, setting forth the names and titles of all persons authorized to act or testify on behalf of the Agency in any proceeding before the court.

[Pa.B. Doc. No. 00-55. Filed for public inspection January 7, 2000, 9:00 a.m.]

CARBON COUNTY

**Rescission and Adoption of Local Rule L1301
Compulsory Arbitration—Cases to be Submitted;
No. 99-2528**

Administrative Order No. 12-1999

And Now, this 16th day of December, 1999, it is hereby

Ordered and Decreed that, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Carbon County Court of Common Pleas hereby *Rescinds* Local Rule of Civil Procedure L1301 promulgated July 1, 1993.

It Is Further Ordered and Decreed that, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Carbon County Court of Common Pleas hereby *Adopts* Local Rule of Civil Procedure L1301 governing cases to be submitted to Compulsory Arbitration.

The Carbon County District Court Administrator is Ordered and Directed to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
4. Forward one (1) copy for publication in the Carbon County Law Journal.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary's Office.

By the Court

JOHN P. LAVELLE,
President Judge

Rule L1301. Compulsory Arbitration—Cases to be Submitted.

(a) Except as provided hereunder, all cases having an amount in controversy, exclusive of interest and costs, of twenty-five thousand (\$25,000) dollars or less shall be assigned to the Compulsory Arbitration Program of the Court of Common Pleas of Carbon County.

(b) The amount in controversy shall be determined from the initial Complaint. The Court may, on its motion or upon the motion of any party, strike from the trial list and certify for compulsory arbitration any cases which the Court determines should have been on the arbitration list in the first instance.

(c) The following cases or claims shall not be assigned for compulsory arbitration:

- (i) cases involving title to real estate;
- (ii) any other case type or claim which may be excluded from time to time by Order of the Court on its own motion or upon the motion of any party.

[Pa.B. Doc. No. 00-56. Filed for public inspection January 7, 2000, 9:00 a.m.]

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SCHUYLKILL COUNTY
Rules of Civil Procedure; S-2471-1999

And Now, this 20th day of December, 1999, at 10:45 a.m., the Court hereby amends Schuylkill County Civil Rule of Procedure No. 212.1 for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District). This rule shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 212.1 Pre-Trial List.

(a) When a case is at issue, counsel shall proceed to complete discovery where desired and shall hold settlement meetings at which serious attempt shall be made by counsel to resolve the issues raised by the pleadings.

Thereafter, any party may list the case for pre-trial by filing a certificate of readiness on Prothonotary form 212. The Prothonotary shall then promptly forward the certificate to the Court Administrator. Failure to complete each item of Prothonotary Form 212 shall be cause for striking the case from the pre-trial list. Misrepresentations in the completion of this form which would delay the court process may be subject to the contempt powers of the Court.

(b) A copy of Prothonotary Form 212 shall be served on all counsel contemporaneously with the filing thereof. Within 20 days after filing of the form, opposing counsel may file with the Prothonotary written objections thereto stating the reasons, and shall serve a copy thereof upon the Court Administrator and other counsel. The Court Administrator shall promptly deliver the certificate and objections to the President Judge who shall promptly dispose of said objections. Failure to file such objections constitutes a waiver of any objections to the certificate of readiness including, but not limited to, any claim that discovery has not been completed. If a summary judgment

motion is contemplated by the non-moving party, that party must file objections to the certificate of readiness or the right to do so will be deemed waived.

(c) Each case on the pre-trial list shall be assigned by the President Judge to one of the Judges for pre-trial and trial proceedings. Thereupon, the Judge to whom a case is assigned shall summon the parties to a pre-trial conference.

(d) This rule shall be applicable to paternity cases where trial is demanded on the issue of paternity.

(e) The filing of a certificate of readiness and the failure to object thereto constitute an assertion that counsel will be available to try the case within the next two civil trial terms established by the official court calendar.

[Pa.B. Doc. No. 00-57. Filed for public inspection January 7, 2000, 9:00 a.m.]

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**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 22, 1999, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 22, 1999 for Compliance Group 1 due April 30, 1999.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

David E. Aronow
New York, NY

Madeleine G. Barber
Blackwood, NJ

Lawrence Barnett
Coconut Creek, FL

Michael Thomas Barrett
Skillman, NJ

John L. Belle
Framingham, MA

Brian David Boyd
Stamford, CT

Alyce J. Boyd-Stewart
Clinton, MD

Peter A. Cook
Hoboken, NJ

Shirley E. Dilsworth
Boulder, CO

Gail Jeanetta Edwards
Winchester, VA

Paul Femia
Elizabeth, NJ

Leonard I. Fischer
San Diego, CA

Jared S. Garelick
Silver Spring, MD

Joel Harry Green
Boston, MA

George D. Hepner III
Folmouth, ME

Richard Alan Hochman
Butler, NJ

Robert F. Housman
Washington, DC

Timoty F. Xavier Jones
New York, NY

Jerrold Neil Kaminsky
Kendall Park, NJ

Gerald H. Kauffeld
Brigantine, NJ

Donald A. King
Upper Marlboro, MD

Leigh Riley Krohmer
Wilwaukee, WI

Thomas P. L'Helias New York, NY	George A. Schell Jr. Rochester, NY
Deborah Martin-Norcross New York, NY	Mary A. Scheuhing Key West, FL
Guy R. Milone Jr. Garden City, NY	Kathryn M. Shabel Cherry Hill, NJ
Margaret K. Minister Portland, ME	Michael Andre Shipp Newark, NJ
Richard T. Muller New York, NY	Edward B. Simpson Jr. San Francisco, CA
Mark Raymnd Multerer Buffalo, NY	Elliott Scott Stomel Westmont, NJ
Edward H. Mulvihill Gibbsboro, NJ	Stacy Ann Tankel Ridgefield Park, NJ
Todd Lewis Normane Short Hills, NJ	Evora Arleen Thomas Hampton, VA
Kathleen Theresa O'Boyle Port Fairfield, ME	Bruce Lester Throckmorton Trenton, NJ
Terrance O'Connell New City, NY	David Edward Thurston Fort Lee, NJ
Frank S. Pappalardo Rochester, NY	Patrick W.D. Turley Washington, DC
Hal B. Parkerson Oyster Bay, NY	Mary Jean Tutelian Dayton, OH
Lisa Sue Paye Caldwell, NJ	Jeffrey E. Ugoretz Westmont, NJ
Christopher L. Pennington New York, NY	Andrew Guy Verne San Diego, CA
David H. Perez Sterling Heights, MI	Walter Keith Wilkerson Cincinnati, OH
George O. Phillips Houston, TX	Andrew Joseph Witherell Wilmington, DE
Hayley Erica Ramer Santa Monica, CA	Brian Richard Yoshida Buffalo, NY
June Acie Rhinehart Chicago, IL	Peter J. Zis Richton Park, IL

ELAINE M. BIXLER,
Executive Director and Secretary
The Disciplinary Board of the
Supreme Court

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