

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rules 208, 215 and 219 of the Rules of Disciplinary Enforcement; No. 150 Disciplinary Rules Doc.

Order

Per Curiam

And Now, this 21st day of April, 2017, upon the recommendation of the Disciplinary Board of the Supreme Court of Pennsylvania; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 46 Pa.B. 7520 (December 3, 2016):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 208, 215 and 219 of the Pennsylvania Rules of Disciplinary Enforcement are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in 30 days.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

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(g) *Costs.*

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph **pursuant to orders of suspension that are not stayed in their entirety or disbarment shall be paid by the respondent-attorney within 30 days after notice transmitted to the respondent-attorney of taxed expenses. In all other cases, expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney.**

(2) In the event a proceeding is concluded by informal admonition, private reprimand or public reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney **[on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel for informal admonition or the Board for private or**

public reprimand] within 30 days of entry of the order taxing the expenses against the respondent-attorney. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

(3) **Failure to pay taxed expenses within 30 days after the date of the entry of the order taxing such expenses in cases other than a suspension that is not stayed in its entirety or disbarment will be deemed a request to be administratively suspended pursuant to Rule 219(l).**

[(3)] (4) The expenses taxable under paragraph (1) or (2) may include an administrative fee except that an administrative fee shall not be included where the discipline imposed is an informal admonition. The administrative fee shall be \$250.

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Rule 215. Discipline on consent.

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(i) *Costs.*—[**The panel of the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the matter shall be paid by the attorney as a condition to the grant of the Petition.**] All expenses taxed under this subdivision shall be paid by the attorney **[before the imposition of discipline under subdivision (f) or (g)] in accordance with Rule 208(g).**

Rule 219. Annual registration of attorneys.

* * * * *

(1) The Board shall transmit by certified mail to every attorney who fails to pay any **[expenses taxed pursuant to Enforcement Rule 208(g)] taxed expenses under Enforcement Rule 208(g)(3)** (relating to costs), addressed to the last known address of the attorney, a notice stating:

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[Pa.B. Doc. No. 17-752. Filed for public inspection May 5, 2017, 9:00 a.m.]

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 93]

Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 80

By Order dated February 15, 2017, the Supreme Court of Pennsylvania amended Pa.R.D.E. 219(a) and (j) and 502(b) related to the annual assessment of attorneys. By this Order, the Board is making conforming changes to its Rules to reflect the adoption of those amendments.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to the amendments

adopted hereby, those proposed rulemaking procedures are inapplicable because the amendments adopted hereby relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(12), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

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

JULIA FRANKSTON-MORRIS, Esq.,
Secretary

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

ANNUAL REGISTRATION OF ATTORNEYS

§ 93.141. Annual registration.

(a) *General rule.* Enforcement Rule 219(a) provides that every attorney admitted to practice law in this Commonwealth shall pay an annual fee of [**\$125.00**] **\$120.00** and electronically file the annual fee form provided for under such rule by July 1; that the fee shall be collected under the supervision of the Attorney Registration Office, which shall make the annual fee form available for filing through a link on the Board's website (<http://www.padisiplinaryboard.org>) or directly at <https://ujportal.pacourts.us>. The fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine. Upon an attorney's written request submitted to the Attorney Registration Office and for good cause shown, the Attorney Registration Office shall grant an exemption from the electronic filing requirement and permit the attorney to file the annual fee form in paper form.

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§ 93.146. Selection of retired or inactive status and resumption of active status.

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(b) *Inactive Status.* Enforcement Rule 219(j) provides that:

* * * * *

(2) An inactive attorney under this subsection (b) shall continue to file the annual form required by § 93.142(b),

and shall file the form through the online system identified in § 93.141(a) and shall pay an annual fee of [**\$70.00**] **\$100.00** in the manner provided in § 93.142(b)(2). Noncompliance with this provision will result in the inactive attorney incurring late payment penalties, incurring a collection fee for any check in payment that has been returned to the Board unpaid, and being placed on administrative suspension in accordance with the provisions of § 93.144.

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[Pa.B. Doc. No. 17-753. Filed for public inspection May 5, 2017, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1910 AND 1920]

Proposed Amendments of Pa.R.C.P. Nos. 1910.4, 1910.16-4, 1920.1, 1920.13, 1920.15, 1920.31, 1920.51, 1920.52, 1920.54, 1920.56 and 1920.74

The Domestic Relations Procedural Rules Committee is planning to propose to the Supreme Court of Pennsylvania amendments of Pa.R.C.P. Nos. 1910.4, 1910.16-4, 1920.1, 1920.13, 1920.15, 1920.31, 1920.51, 1920.52, 1920.54, and 1920.74 and rescission of Pa.R.C.P. No. 1920.56 for the reasons set forth in the accompanying Publication Report. Pursuant to Pa.R.J.A. No 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded; deletions to the text are bolded and bracketed.

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

Bruce J. Ferguson, Counsel
Domestic Relations Procedural Rules Committee
Supreme Court of Pennsylvania
Pennsylvania Judicial Center
PO Box 62635
Harrisburg, PA 17106-2635
Fax: 717-231-9531
domesticrules@pacourts.us

All communications in reference to the proposal should be received by August 11, 2017. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

*By the Domestic Relations
Procedural Rules Committee*

DAVID J. SLESNICK, Esq.,
Chair

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.4. [Commencement of Action. Fee.] Domestic Relations Section. Commencement of Action. No Filing Fees. Authorized Fees.

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

Official Note: For the form of the complaint, see Rule 1910.27(a).

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

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

(a) Each court of common pleas shall have a domestic relations section, which shall be the filing office for pleadings and documents for child support, spousal support, and alimony *pendente lite* actions.

(b) Child support and spousal support actions shall be commenced by filing a complaint in the domestic relations section. A party shall commence a claim for alimony *pendente lite* by filing a complaint in the domestic relations section if a divorce complaint has been filed with the prothonotary.

Official Note: See Pa.R.C.P. No. 1920.31(a)(2) regarding the filing of alimony *pendente lite* actions in the domestic relations section.

(c) Payment of a filing fee shall not be required by the domestic relations section to commence an action.

Official Note: See Pa.R.C.P. No. 1910.27(a) for the form of the support complaint.

(d) Unless authorized by statute, additional fees shall not be imposed by a judicial district. Fees shall be collected by the domestic relations section through the Pennsylvania Child Support Enforcement System (PACSES).

Official Note: Currently the statutorily authorized fees are the Judicial Computer System fee, 42 Pa.C.S. §§ 3733, 3733.1, the genetic testing fee pursuant to 23 Pa.C.S. § 4343(c)(4), and the federally mandated annual fee pursuant to 23 Pa.C.S. § 4351(a)(1).

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.

* * * * *

(f) *Allocation. Consequences.*

(1) An order awarding [both] spousal support or alimony *pendente lite* and child support may be unallocated or state the amount of support allocable to the spouse and the amount allocable to each child. [Each] The order shall clearly state whether it is allocated or unallocated even if the amounts calculated for spousal support or alimony *pendente lite* and child [and spousal] support are delineated [on] in the order. However, Part IV of the formula provided by these rules assumes that an order will be unallocated. Therefore, if the order is to be allocated, the formula set forth in this

rule shall be utilized to determine the amount of support allocable to the spouse. If the allocation of an order utilizing the formula would be inequitable, the court shall make an appropriate adjustment. Also, if an order is to be allocated, an adjustment shall be made to the award giving consideration to the federal income tax consequences of an allocated order as may be appropriate under the circumstances. [No consideration] Consideration of federal income tax consequences shall be not applied if the order is unallocated or the order is for [the] spousal support or alimony *pendente lite* only.

Official Note: The 2005 amendment supersedes *Diament v. Diament*, 816 A.2d 256 (Pa. Super. [Ct.] 2003), to the extent that it held that the tax savings from payments for the benefit of a spouse alone or from an unallocated order for the benefit of a spouse and child must be considered in determining the obligor's available net income for support purposes. [Rule] Pa.R.C.P. No. 1910.16-4(f)(1) states that the guidelines formula assumes that the order will be unallocated. The tax consequences of an order for a spouse alone or an unallocated order for the benefit of a spouse and child have already been built into the formula.

(2) When the parties are in higher income brackets, the income tax considerations are likely to be a more significant factor in determining an award of support. A support award for a spouse and children is taxable to the obligee while an award for the children only is not. Consequently, in certain situations, an award only for the children will be more favorable to the obligee than an award to the spouse and children. In this situation, the trier of fact should utilize the [guidelines which result] method that results in the greatest benefit to the obligee.

[When] If the obligee's net income is equal to or greater than the obligor's net income, the guideline amount for spouse and children is identical to the guideline amount for children only. Therefore, in cases involving support for spouse and children, whenever the obligee's net income is equal to or greater than the obligor's net income, the guideline amount indicated shall be attributed to child support only.

(3) Unallocated charging orders for child and spousal support[,] or child support and alimony *pendente lite*[,] shall terminate upon the death of the [payee spouse or payee ex-spouse] obligee.

(4) In the event that the obligor defaults on an unallocated order, the court shall allocate the order for collection of child support pursuant to the Internal Revenue Service income tax refund intercept program or for registration and enforcement of the order in another jurisdiction under the Uniform Interstate Family Support Act, 23 [Pa.C.S.A.] Pa.C.S. § 7101 *et seq.* The court shall provide notice of allocation to the parties.

Official Note: This provision is necessary to comply with various state and federal laws relating to the enforcement of child support. It is not intended to affect the tax consequences of an unallocated order.

(5) An unallocated order for spousal support or alimony *pendente lite* and child support shall be a final order as to all claims covered in the order.

Explanatory Comment—2005

Rule 1910.16-4(a) sets forth the income shares formula used to establish the support obligation. Subdivision (b) provides the method for calculating support for seven or

more children as the basic support schedule in Rule 1910.16-3 sets forth the presumptive amount of support for only up to six children.

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CHAPTER 1920. ACTIONS OF DIVORCE OR FOR ANNULMENT OF MARRIAGE

Rule 1920.1. Definitions. Conformity to Civil Action.

(a) As used in this chapter,

“action” means an action of divorce or an action for annulment of marriage [**which may include any other claim which may under the Divorce Code**], **including ancillary claims that may be joined with the action of divorce or for annulment under the Divorce Code, except as otherwise provided in these rules;**

“custody” includes partial custody [**and visitation**];

“divorce” means divorce from the bonds of matrimony **or a civil union;**

* * * * *

Official Note: For other claims [**which**] that may be joined, see Section 3104 of the Divorce Code, 23 Pa.C.S. § 3104, **except as otherwise provided in these rules. See Pa.R.C.P. No. 1920.31(a)(2) as to raising claims for child support, spousal support, and alimony pendente lite. The definition of divorce has been expanded to include civil unions. Neyman v. Buckley, 2016 Pa. Super. 307.**

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

(a) The plaintiff may state in the complaint one or more grounds for divorce and may join in the alternative a cause of action for annulment.

(b) [**The plaintiff may**] **Except as otherwise provided in these rules, the plaintiff may:**

(1) [**join in the complaint in separate counts any other claims which may under the Divorce Code be joined with an action of divorce or for annulment or, if they have not been so joined, the plaintiff may as of course**] **join as separate counts in the complaint the ancillary claims that may be joined with an action of divorce or for annulment under the Divorce Code;**

(2) amend the complaint to include [**such other claims or may**] **the ancillary claims;**

(3) file to the same term and number a separate supplemental complaint or complaints limited to [**such other**] **the ancillary claims;** or

[(2)] (4) file to the same term and number a subsequent petition raising [**such other**] **the ancillary claims.**

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

Official Note: See Pa.R.C.P. No. 1920.31(a)(2) as to raising claims for child support, spousal support, and alimony *pendente lite*. See Pa.R.C.P. No. 1910.26(b) for interim or special relief for support and alimony *pendente lite* actions proceeding through the domestic relations section.

Rule 1920.15. Counterclaim. Subsequent Petition.

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

(b) [**The defendant may file to the same term and number a subsequent petition raising any claims which under the Divorce Code may be joined with an action of divorce or for annulment. The averments shall be deemed denied unless admitted by an answer.**] **Except as otherwise provided in these rules, the defendant may:**

(1) **join as separate counts in the counterclaim the ancillary claims that may be joined with an action of divorce or for annulment under the Divorce Code;**

(2) **file at the same term and number a subsequent petition raising the ancillary claims.**

(c) **The averments in the counterclaim shall be deemed denied unless admitted by an answer.**

Official Note: See [**Rule**] Pa.R.C.P. No. 1920.31, which requires the joinder of certain related claims under penalty of waiver. A claim for alimony must be raised before the entry of a final decree of divorce or annulment. See Pa.R.C.P. No. 1920.31(a)(2) as to raising claims for child support, spousal support, and alimony *pendente lite*.

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

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

(2) **A divorce complaint shall not include claims for child support, spousal support, and alimony pendente lite. Claims for child support, spousal support, and alimony pendente lite shall be raised by filing a complaint with the domestic relations section pursuant to Pa.R.C.P. No. 1910.4.**

[(2)] (3) If a party fails to file the documents as required by subdivision (a)(1), the court on motion may make an appropriate order under [Rule] Pa.R.C.P. No. 4019 governing sanctions.

[(3) In those counties in which the prothonotary's office does not automatically forward a divorce complaint containing claims for support or alimony pendente lite to the domestic relations section or other appropriate office, if a claim for support or alimony pendente lite is filed as a count in a divorce rather than as a separate action, the award shall be retroactive to the date the moving party delivers a copy of the complaint to the domestic relations section or other appropriate office with a demand for hearing.]

(b)(1) Orders [of child support, spousal support, alimony or alimony pendente lite] for alimony may be enforced as provided by the rules governing actions for support and divorce, and in the Divorce Code.

Official Note: See, *inter alia*, Section 3323(b) of the Divorce Code relating to enforcement of the rights of any party under a decree, Section 3505(a) relating to an injunction against disposition of property pending suit, and Section 3703 relating to the collection of arrearages.

(2) When so ordered by the court, [all payments of child or spousal support, alimony or alimony pendente lite] payments for alimony shall be made to the domestic relations section of the court [which] that issued the order.

(c) The failure to claim spousal support, alimony, alimony pendente lite [or], counsel fees, or costs and expenses prior to the entry of a final decree of divorce or annulment shall be deemed a waiver [thereof] of those claims, unless the court expressly provides otherwise in its decree. The failure to claim child support shall not bar a separate and subsequent action [therefor].

(d) Upon entry of a decree in divorce, [any] an existing order for spousal support shall be deemed an order for alimony pendente lite if any economic claims remain pending.

Explanatory Comment

As amended, Pa.R.C.P. No. 1920.31 precludes the filing of child support, spousal support, and alimony pendente lite as counts in a divorce action. Those claims should be filed in the domestic relations section as a separate action from the divorce. This Rule is not intended to affect the legal distinction between spousal support and alimony pendente lite.

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing.

(a)(1) The court may hear the testimony or, upon its own motion or the motion of [either] a party, may appoint a master with respect to [all or any of the matters] the claims specified in subdivision (a)(2)(i) [to consider same], who shall consider those claims and issue a report and recommendation. The order of appointment shall specify the [matters] claims which are referred to the master.

(2)(i) The court may appoint a master in an action of divorce under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, an action for annulment, and the claims for

alimony, [alimony pendente lite,] equitable distribution of marital property, [child support,] partial custody [or visitation, or], counsel fees, or costs and expenses, or any aspect [thereof] of those claims.

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Rule 1920.52. Hearing by the Court. Decision. No Post-trial Relief. Decree.

- (a) In claims involving:
 - (1) marital property[,];
 - (2) enforcement of marital agreements[,];
 - (3) alimony[,]; or
 - (4) a contested action of divorce, or annulment,

the order of the trial [judge] court shall state the reasons [therefor] for its decision. [No] A motion for post-trial relief may not be filed to [any order] orders involving the claims enumerated in this subdivision.

- (b) In claims involving:
 - [(1) child or spousal support,
 - (2)] (1) paternity when tried by a judge[,];
 - [(3)] (2) custody[, partial custody, or visitation,];
 - [(4) alimony pendente lite,
 - (5)] (3) counsel fees[,] or costs and expenses[, or];
 - [(6)] (4) an uncontested action of divorce or annulment[,]; or
 - [(7)] (5) protection from abuse,

the order of the trial [judge] court may set forth only general findings. [No] A motion for post-trial relief may not be filed to [any order] orders involving the claims enumerated in this subdivision.

* * * * *

Rule 1920.54. Hearing by Master. Report. Related Claims.

(a) If claims for [child support, alimony pendente lite, or] counsel fees and costs and expenses have been referred to a master pursuant to [Rule] Pa.R.C.P. No. 1920.51(a), the master's report shall contain a separate [sections] section captioned ["Child Support," "Alimony Pendente Lite," or] "Counsel Fees and Costs and Expenses." [as appropriate.] The report may be in a narrative form stating the reasons for the recommendation and shall include a proposed order stating:

- (1) the amount [of support or alimony pendente lite];

* * * * *

Rule 1920.56. [Support. Alimony Pendente Lite. Allocation of Order] (Rescinded).

[(a) In an order awarding child support combined with spousal support, alimony pendente lite or both, the court may on its own motion or upon the motion of either party

- (1) make an unallocated award in favor of the spouse and one or more children, or

(2) state the amount of support allocable to the spouse and the amount allocable to each child.

(b) An unallocated order in favor of the spouse and one or more children shall be a final order as to all claims covered in the order.]

Rule 1920.74. Form of Motion for Appointment of Master. Order.

(a) The motion for appointment of a master shall be substantially in the following form:

(Caption)

MOTION FOR APPOINTMENT OF MASTER

_____ (Plaintiff) (Defendant), moves the court to appoint a master with respect to the following claims:

- () Divorce
- () Annulment
- () Alimony
- [() Alimony Pendente Lite]
- () Distribution of Property
- [() Support]
- () Counsel Fees
- () Costs and Expenses

and in support of the motion states:

- (1) Discovery [is] (is) (is not) complete as to the claim(s) for which the appointment of a master is requested.
- (2) The non-moving party (has) (has not) appeared in the action (personally) (by his **or her** attorney, _____, Esquire).

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PUBLICATION REPORT

Recommendation 160

The Domestic Relations Procedural Rules Committee (DRPRC) is proposing amendments to Pa.R.C.P. Nos. 1910.4, 1910.16-4, 1920.1, 1920.13, 1920.15, 1920.31, 1920.51, 1920.52, 1920.54, and 1920.74 and rescission of Pa.R.C.P. No. 1920.56. The primary purposes of the amendments are to preclude the charging of fees not specifically authorized by statute in domestic relations actions and to establish statewide uniformity with the filing of support-related pleadings and document in a single filing office in each county.

In 2013, the Administrative Offices of Pennsylvania Courts (AOPC) conducted a county-by-county study and survey of fees assessed by domestic relations sections. Based on the study's recommendations, the Supreme Court of Pennsylvania formed an ad hoc committee, the Domestic Relations Fees Committee, to provide definitive recommendations regarding the imposition of the domestic relations fee structure in Pennsylvania.

In November 2015, the Domestic Relations Fees Committee issued a final report setting forth specific recommendations addressing the imposition of fees by domestic relations sections and other support-related matters, which has been provided to the DRPRC. Based in part on the aforementioned reports, the DRPRC has identified rules requiring amendment and rescission to address the charging of fees not authorized by statute and the other related issues.

The Committee invites comments on this recommendation.

[Pa.B. Doc. No. 17-754. Filed for public inspection May 5, 2017, 9:00 a.m.]

Title 255—LOCAL COURT RULES

SCHUYLKILL COUNTY Orphans' Court Rules; CP-54-AD-38-17

Order of Court

And Now, this 19th day of April, 2017, at 11 a.m., the Court hereby adopts the Rules of the Court of Common Pleas of Schuylkill County, Orphans' Court Division, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective 30 days after publication in the *Pennsylvania Bulletin*.

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

- 1) File one (1) copy of this Order and Rule with the Administrative Office of the Pennsylvania Courts via email to adminrules@pacourts.us.

2) File two (2) paper copies of this Order and Rule and a computer diskette containing the text of the local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3) Publish a copy of the local rule on the Schuylkill County Court website at www.co.schuylkill.pa.us.

4) Incorporate the local rule into the set of local rules on www.co.schuylkill.pa.us within thirty (30) days after publication in the *Pennsylvania Bulletin*.

5) File one (1) copy of the local rule in the Office of the Schuylkill County Clerk of Courts for public inspection and copying.

6) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

By the Court

WILLIAM E. BALDWIN,
President Judge

LOCAL RULES

Rule 1.1. Short Title.

These rules shall be known as Rules of the Court of Common Pleas of Schuylkill County, Orphans' Court Division, and shall be cited as Sch.Co.O.C. Rules. All references herein to the "P.E.F. Code" shall mean Title 20, Decedent, Estates, and Fiduciaries.

Rule 1.5A. Local Rules Committee.

The Court shall, as often as needed, appoint an Orphans' Court Rules Committee and shall designate the Chairperson to serve with an assigned Judge on the committee. Each member of the committee shall be an active, practicing member of the bar of this Court and knowledgeable and experienced in substantive and procedural matters within the jurisdiction of the Court. It shall be the duty of said committee to meet with the Court for the purpose of recommending amendment, supplementation and/or repeal of these Rules so that said Rules shall at all times constitute a modern and efficient code for the conduct of the affairs of this Court.

Rule 1.5B. Bonds and Security.

(a) When the fiduciary is a corporation having fiduciary powers and authorized to do business in the Commonwealth, a bond will not be required unless the Court, upon cause shown, deems it advisable that a bond be filed.

(b) Every application for the approval of a corporation to act as surety shall be accompanied by a statement, sworn to by the president, secretary or authorized agent of the corporation, that it is duly authorized by certificate issued to it by the Insurance Department of this Commonwealth to become surety on all bonds and obligations, that it has filed such certificate together with a copy of its financial statement with the Prothonotary of Schuylkill County in accordance with the rules of the Court of Common Pleas of Schuylkill County and that the certificate is still in full force and effect.

(c) All bonds presented for approval, except those having proper corporate surety, shall be accompanied by an affidavit of each person offered as surety, setting forth his name and residence, and that he is the owner in his individual right in fee simple of real estate located in Schuylkill County having a fair net value, after deducting all liens and encumbrances, in excess of the face amount of the bond upon which he is a surety.

(d) The Court in its discretion may permit interested parties to execute an individual bond, without surety. When interested parties are authorized to execute an individual bond, the Court may direct that the bond to be executed contains a warrant of attorney to confess judgment, with or without default, and that judgment thereon be entered of record in the office of the Prothonotary.

Rule 1.5C. Schuylkill Legal Record.

The Schuylkill Legal Record shall be the legal periodical for the publication of notices whenever publication in a legal periodical is required by Act of Assembly, by Rule, or by Order of Court.

Rule 1.7. Attorneys.

(a) As long as the name of the attorney remains in the record, he shall be considered as the attorney for the party for whom his appearance is entered and shall be served with all required notices and pleadings. Any attorney whose client has an interest in the proceeding may, by praecipe, enter an appearance as of record. Any attorney who has properly entered an appearance will receive notice of all hearings, conferences, and orders.

(b) Counsel who has appeared on behalf of a party in a matter before the Clerk shall be subject to this Rule.

Rule 1.8A. Praecipe to Transmit.

(a) All filings which require action by a judge or an assignment by the Court Administrator shall be accompanied by a praecipe to transmit on the Clerk's form "Praecipe to Transmit" and shall indicate the nature of the filing and what action is being sought to move the matter forward. The purpose of the praecipe is to advise the Court of what may be necessary for a disposition (i.e. when a hearing is required; when a matter is ripe for disposition on the record; matters that can be immediately addressed) and to expedite action on the filing.

(b) When a non-jury trial or a hearing involving witnesses is being requested, then the moving party shall list the witnesses to be presented and include an estimate as to the time required to present the case. In matters requiring a non-jury trial or hearing, opposing counsel is required to file a report in WRITING with the Clerk within 20 days of the moving party's filing of the praecipe to transmit, (1) listing the names of the witnesses they will use at trial or hearing; and (2) an estimate of time required to present their case.

(c) The Praecipe shall be in the following form:

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION
In Re: _____ | No. _____
| Counsel of Record: _____

PRAECIPE TO TRANSMIT—SCH.O.C. RULE 1.8A(c)

TO: THERESA SANTAI GAFFNEY, CLERK OF THE ORPHANS' COURT:

Transmit the attached matter to the Orphans' Court Administrator for assignment to a Judge. The nature of the filing and requested action is as follows:

- Petition / Motion for _____ requesting:
□ Transfer to Court for disposition, no answer having been filed;
□ Transfer to Court for Hearing on fact issues raised by pleadings;
□ Transfer to Court for Conference;
□ Other _____

(specify)

Issue that can be decided on the records and briefs, being:

- Appeal from decision of the Register of Wills;
- Post-trial Motions;
- Contested matter and fact finding complete or unnecessary;
- Other _____

_____ (specify)

I estimate it will require _____ hour(s) to present the moving party's case and I will present only the following witnesses for testimony: (attach additional sheets, if needed)

I further certify the status of the following as they pertain to the disposition of this case:

1. ALL discovery has been completed? YES NO N/A

If "NO", state status of discovery

2. Date last serious settlement negotiation was conducted _____. If no settlement conference was conducted, the last date that the party filing this certificate has made an unsuccessful good faith effort to conduct one _____.

3. A copy of this Certificate was served on opposing counsel on this date: _____.

DATE

ATTORNEY'S SIGNATURE

FOR HEARING REQUESTS: Opposing Counsel is required to submit a report in WRITING to the Orphans' Court Administrator within 20 days: 1) listing the names of the witnesses they will use at the hearing; and 2) an estimate of time required to present their case.

Rule 1.8B. Orphans' Court Account Checklist.

(a) The checklist must be executed by counsel of record and submitted with the Account in the following form:

**COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
ORPHANS' COURT DIVISION
ORPHANS' COURT ACCOUNT CHECK LIST**

File No. _____ Audit No. _____ Audit, 20____

Estate of _____

Account of _____
Executor, Administrator, Guardian, Trustee

FORM OF ACCOUNT SHALL COMPLY WITH STATE AND LOCAL ORPHANS' COURT RULES.

Certify whether the following have been filed (answer "yes", "no" or "N.A." if not applicable):

1. Statement of Proposed Distribution. _____

2. Proofs of Publication. _____

(a) Have 4 months elapsed since first complete Advertisement? _____

3. Inventory. _____

4. Copy of Federal Estate Tax Return. _____

(a) Has final clearance been obtained? _____

Certify as to the following:

5. Account contains:

(a) Complete description of real property on hand in kind (i.e. not converted), whether or not specifically devised _____

(b) Legible true copy of the Will. _____

(c) Copy of trust instrument or other document to be construed. _____

(d) Itemized list of all assets making up balance for distribution. _____

6. Are there any claims, whether admitted or not? _____

7. Are there any disputed claims? _____

8. Have all interested parties and claimants been given notice of audit as required by State and Local Orphans' Court Rules? _____

9. Are there any disputed questions of fact or law? _____

10. Has inheritance tax been paid in full? _____
- (a) Has final clearance from the Department of Revenue been received? _____
11. Does Account comply with State and Local Orphans' Court Rule 2.1? _____
12. If a guardian's or trustee's account, indicate briefly the purpose for filing. _____

Dated: _____

Signature of Attorney Filing Account

CERTIFICATION ONLY BY CLERK:

1. Original proofs of publication and statements of proposed distribution are attached to account.
2. Inventory has been filed and a copy attached to account.
3. Copy of Federal Estate Tax Return has been filed.
4. Inheritance Tax has been paid in full and appraisal received.
5. Account complies with State and Local Rule 2.1.

Dated: _____

Signature of Certifying Clerk

Rule 1.8C. Account Certificate.

(a) Prior to the date for submission of accounts to the Court for adjudication and confirmation, a Certificate shall be filed by counsel for the accountant containing the following:

(1) A statement of additional items of debit and credit not appearing in the account which shall be signed and verified by the accountant(s);

(2) A statement identifying any unresolved legal or factual issues with copies of any additional documents which the accountant believed necessary or relevant for the court's consideration;

(3) A return of service of notice to all claimants and interested parties which notice shall comply with the requirements of Pa.O.C. Rule 2.5(a)—(g) with respect to an account.

ACCOUNTS AND DISTRIBUTION

Rule 2.1. Form of Accounts and Additional Requirements.

(a) Should the account filed fail to comply with the Uniform Fiduciary Accounting Standards, the Clerk shall notify the Accountant to immediately comply with the Standards prior to 30 days before Audit Submission Day. The corrected account shall be given to all interested parties. A failure to correct the account shall result in the account being stricken.

(b) Counsel for all fiduciaries shall also submit:

- (1) An Orphans' Court Account Checklist;
- (2) Copies of all agreements with respect to settlements and compromises;
- (3) 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 the recital of title to the decedent.

(c) Counsel for personal representatives shall also attach:

- (1) A copy of letters, inventory, and inheritance tax appraisal;
- (2) A copy of the Will and codicils;
- (3) The official receipt for any inheritance tax paid;
- (4) The official receipt for any federal estate tax paid.

(d) Counsel for Trustees shall also submit:

(1) A copy of the letters, and of the Will and codicils, if any, creating the testamentary trust, or a copy of the trust instrument and any amendments thereto, creating the inter vivos trust;

(e) Counsel for a Guardian of the Estate of an Incapacitated Person shall also submit:

(1) A copy of the original inventory filed.

Rule 2.4. Petitions for Adjudication and Statements of Proposed Distribution; Supplements and Additions.

(a) Receipts or disbursements received or made after filing the Account and Petition for Adjudication/Statement of Proposed Distribution may be accounted for in a supplemental account, which shall be signed and verified by the accountant(s) and filed with the Clerk with notice in the same manner as required by Pa.O.C. Rule 2.5 (a)—(g) with respect to an account.

Rule 2.5. Notice and Advertisement.

(a) The Clerk shall give notice of all accounts filed and of the date of submission to the Court for adjudication and confirmation. The notice shall be published once a week during two consecutive weeks immediately before the day on which the Accounts shall be presented for adjudication and confirmation in the legal publication designated by these rules and in one daily newspaper of general circulation published within Schuylkill County. The Clerk shall also post copies of the confirmation list in his office.

(b) The form of advertisement shall be as follows:

NOTICE OF CONFIRMATION OF FIDUCIARIES' ACCOUNTS

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

The following Accounts have been filed and may be examined in the Office of the Clerk. If you desire to object, you must file that objection in writing with the Clerk prior to Wednesday, _____, _____. The Account will be transmitted by the Clerk to the Court for adjudication and confirmation on Wednesday, _____, _____ and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

Estate	Fiduciary	Attorney
x	x	x

Clerk		

(c) The form of notice shall contain the information required by Pa.O.C. Rule 2.5(h) and be in substantially the following form:

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

IN THE MATTER OF _____ ESTATE
 FIRST ACCOUNT OF _____ (EXECUTOR)
 UNDER THE WILL OF _____
 NUMBER _____

NOTICE

Notice is hereby given that the (_____) of the above-captioned Estate has filed (_____) Account and Statement of Proposed Distribution with the Clerk of Schuylkill County, Pennsylvania. The account will be transmitted by the Clerk to the Court for adjudication and confirmation on Wednesday, _____, _____ and distribution may be ordered or authorized without further notice if no objections are filed prior to that date.

If you have any objection to any transaction or matter involving the Estate, you must file written objections with the Clerk prior to Wednesday, _____, _____.

If you fail to present objections, the Court may assume you have no objection to the Account and Statement of Proposed Distribution. You are not required to take any action if you have no objections.

A copy of the Account and Statement of Proposed Distribution is attached hereto; and if not attached, it is available for your examination at the Clerk's Office in the Schuylkill County Courthouse.

Rule 2.6. Filing with the Clerk.

(a) New accounts shall be submitted for audit on the first Wednesday of each month, as advertised pursuant to Sch.Co.O.C. Rule 2.5. Accounts to appear on a particular confirmation list must be filed not later than 4 P.M. of the fifth Wednesday immediately preceding the Wednesday on which it is desired the account shall be submitted to the Court for adjudication and confirmation.

(b) All accounts on the advertised confirmation list will be transmitted to the Court for adjudication and confirmation on the day set forth on the confirmation list; but, in cases requiring the taking of considerable testimony or the hearing of argument on legal questions or in which objections have been filed, a special day for conference or hearing may be fixed.

(c) When objections to an account, inventory, or statement of proposed distribution have been filed and presented to the Court by the Clerk, the adjudication and confirmation of the account shall be continued to a day fixed by the Court for disposition of the objections and the adjudication and confirmation of the account.

Rule 2.7. Objections. Service.

(a) Any unreasonable delay in serving objections shall constitute grounds for dismissal of the same by the Court.

Rule 2.11. Official Examiners.

(a) 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 his 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. 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.

PETITION PRACTICE AND PLEADINGS

Rule 3.1. Petitions Generally.

(a) The original of all motions, petitions, and other pleadings shall be filed in the office of the Clerk who shall assign a docket number to each new proceeding, which number shall be included in all subsequent pleadings filed. The Clerk shall promptly transmit the pleadings to the Deputy Court Administrator—Orphans' Court for assignment to a Judge for disposition.

(b) The record papers in the office of the Clerk shall be in the custody of said official, who shall be responsible for their safekeeping. No person, other than the Clerk, or his duly authorized clerks shall have access to the files in which such record papers are kept. No one is authorized to remove records from the office of the Clerk. It is the duty of the Clerk to insure full compliance with this rule. The record papers in any proceeding may be examined and copied by any interested parties in the office of the Clerk. While the record papers in any case may be photocopied, the file copy of testimony may not be photocopied.

(c) Any party or his attorney may request oral argument upon a motion or issue involved in any controversial proceeding and the Court shall have the right to require oral argument. Unless oral argument is requested or specifically directed, the Court will decide the issues on briefs as submitted, per the briefing schedule set by the Court.

Rule 3.3. Pleadings.

(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) Every petition and motion shall be accompanied by a praecipe to transmit and a proposed order which, if approved by the Court, would grant the relief sought by the pleading. Every response in opposition to a motion or petition shall be accompanied by a proposed order which, if approved by the Court, would deny or amend the relief sought by the pleading.

(c) All pleadings containing an allegation or allegations of fact, shall be signed by the petitioner or petitioners and their attorney and attested either by an affidavit or by a verified statement setting forth that it is subject to the penalties of 18 Pa.C.S.A § 4904 (relating to unsworn falsifications to authorities) by one or more of the petitioners. When it is impractical to comply with the foregoing, the pleading may be signed and attested by someone familiar with the facts, in which case the reason for the failure of petitioner or petitioners to sign shall be set forth in the attestation.

Rule 3.4. Signing.

(a) 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 3.5. Mode of Proceeding on Petition. Citation Practice.

(a) The return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event of which notice has been given.

(b) Proof of service of a citation by registered or certified mail shall be by affidavit of the person making service, which shall set forth that true and correct copies of the citation, petition, and preliminary order awarding the citation were mailed to the respondent postage prepaid, return receipt requested, the date of mailing, the address to which notice was mailed and that attached to the return is the signed return receipt card which accompanied the letter.

(c) Proof of service of a citation by publication shall consist of proofs of publication together with affidavits by the publisher. It shall also set forth the date(s) and newspaper and/or local periodicals of publication

(d) All petitions shall aver that all interested parties are petitioners, or that consents or joinders of all interested parties are attached. If the petitioner is unable to attach a necessary consent or joinder, he shall so state in his petition together with the reason.

(e) 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]

(f) All "Consents" and "Joinders" shall be signed by at least 2 witnesses.

SPECIAL PETITIONS

Rule 5.2. Family Exemption, Appraisal and Allowance Prior to Audit.

(a) *Personal property*

(1) The petitioner shall file a petition and thereupon shall give 20 days written notice of intention to request the exemption on a stated citation returnable date to the personal representative, if any, and to all persons adversely affected thereby who do not join in the prayer of the petition.

(2) 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. 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.

(b) *Real property*

(1) The appraisers shall, within 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 at a stated Citation Returnable date, of which not less than 20 days notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court may direct.

(2) 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.

(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 interested parties.

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

(e) In the absence of any objection, on presentation of a verified return of notice on the stated citation returnable date, an appropriate decree may be entered. Where all interested parties adversely affected have joined in the prayer of the petition and 20 days prior notice of the filing of the petition has been given to the personal representative, if any, the petitioner may present the petition to the Court on a citation returnable date, whereupon, in the absence of objections and on presentation of a verified return of notice upon the personal representative, an appropriate decree may be entered.

Rule 5.6A. Appointment of Guardian for Minor. Consents Required.

(a) When the proposed guardian is an individual, his written consent to act as such shall contain the following:

(1) His business, and domicile;

(2) A statement that he is a citizen of the United States, able to speak, read, and write the English language;

(3) A statement that he 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 he has no interest adverse to the minor.

(b) 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.

(c) Written consent of the parents or surviving parent of the minor 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.

Rule 5.6B. Minors Accounts and Age of Majority.

(a) If no withdrawals have been made from the minor's account prior to the minor reaching his majority, the institution may pay over the funds when the minor attains age 18 years, upon the joint requests of the guardian and the former minor without further Order of the Court.

(b) If withdrawals have been made from the account, the guardian shall file a petition for his discharge upon the minor's attaining age 18. There shall be attached to the petition:

- (1) A statement in the nature of an account;
- (2) An affidavit by the guardian setting forth that he has received no additional assets belonging to the minor, and that all claims of which he has notice have been paid.

Rule 5.6C. Petition for Allowance from a Minor's Estate.

(a) A petition for an allowance from a minor's estate, for the maintenance, support, or education of the minor, his 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 parents are living; the name of the person with whom he resides; and, if married, the name and age of his 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;
- (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 by him for his failure to do so.
- (8) if the minor is fourteen years of age or older, he shall attach a joinder to the petition, 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.

Rule 5.6D. Petition for Settlement of an Action Involving a Minor.

(a) Except as provided in the next subsection, no settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of the minor's injuries, and whether such injuries have fully resolved, and such further information as the Court shall deem necessary.

(b) The Court may approve the petition without requiring the appearance of the minor, his guardian, or his

doctor, provided the Court concludes that the information contained in the petition is sufficient to satisfy that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred and so long as the petition contains all information set forth in Sch.R.C.P. 2039.

(c) The form of proposed order shall be as follows:

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

In Re:		No.
a Minor		Minor's Compromise

ORDER OF COURT

AND NOW, this _____ day of _____, 20____, at ____ m., upon consideration of the Petition for Approval of Minor's Settlement, it is hereby ORDERED and DIRECTED that the Compromise Settlement in the sum of _____ Dollars (\$_____) is APPROVED, and that the Settlement be distributed as follows:

- 1. The sum of _____ Dollars (\$_____) shall be paid to _____ for his legal representation of the petitioners.
- 2. The sum of _____ Dollars (\$_____) shall be paid to _____ for costs expended.
- 3. The sum of _____ Dollars (\$_____) shall be distributed to the benefit of _____, a minor, to be placed in one or more federally insured savings accounts or federally insured savings certificates in the name of the minor so that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are insured, and to be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT".

Counsel for petitioners is ORDERED to cause the restricted account to be created and to file an affidavit of deposit of minor's funds within thirty (30) days with the Clerk.

If no withdrawals are made from the account prior to the minor reaching his/her majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the natural parent(s) and the former minor without further Order of this Court.

BY THE COURT,

(d) The affidavit of deposit of minor's funds shall be filed within 30 days of the creation of the restricted account and shall be in the following form:

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

In Re:		No.
a Minor		Minor's Compromise

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

The undersigned, counsel for _____, parents and natural guardians of _____, a minor, hereby certifies that the net settlement amount of \$_____ as set forth in this Court's order dated _____ was deposited by _____ into a restricted, federally insured account, marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT" on _____. Account No. _____ is entitled: _____, a minor. Proof of deposit is attached hereto as Exhibit A.

Counsel for Parents and Natural Guardians
of _____, a minor

Rule 5.9. Partition.

(a) Distribution of real property under Section 3534 of the P.E.F. Code, 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 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 interested parties that on the day so fixed for hearing the Court will hear the objections of the interested parties with respect to:

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

(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 interested parties, not less than 20 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 5.10A. Public Sale of Real Property by a Personal Representative.

(a) The petition shall set forth in separate paragraphs:

(1) name, residence, and date of death of the decedent; whether he 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 and its rental value;

(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 interested parties, 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, 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;

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

(b) If the petition is for the payment of debts, it shall set forth in separate paragraphs:

(1) the information required to be set forth under subparagraph (a) of this rule, so far as appropriate;

(2) a statement that the personal estate and the rents of real property are insufficient for payments of debts;

(3) a statement of all real property owned by decedent, wherever situated, which is of the petitioner's knowledge; and

(4) a just and true account of all debts of decedent which have come to petitioner's knowledge; and which, if any, of the debts not of record have had their liens preserved.

Rule 5.10B. Public Sale of Real Property by a Trustee.

(a) The petition 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;

(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 interested parties as beneficiaries, including life tenants and remaindermen, who will be affected by the granting of the petition, whether any of them are minors, 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, and the rental value thereof;

(7) the reasons 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 reasons;

(10) the terms of the proposed sale.

Rule 5.10C. Public Sale of Real Property by a Guardian of an Incapacitated Person or a Minor's Estate.

(a) The petition shall set forth in separate paragraphs:

(1) the name, age, marital status and domicile of the incapacitated person or the minor; 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, or if no inventory filed, then the value of each item as received by the guardian and how and when received;

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

(4) the names of the interested parties as 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 or in the best interest of the minor;

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

(7) the terms of the proposed sale.

Rule 5.10D. Public Sale of Real Property. Advertisement.

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

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

In pursuance of an Order of the Orphans' Court Division aforesaid, 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 at the Schuylkill County Courthouse, Pottsville, Pennsylvania, where they may be examined by the interested parties.

(b) The advertisement shall give the name of the decedent, trust beneficiary, minor, or incapacitated person, the municipality in which he 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 fiduciary directed to make the sale, and the name of the attorney representing the fiduciary.

(c) At least 20 days written notice shall be given to all non-joining interested parties (1) as heirs, devisees, legatees, or lien holders, where the property to be sold is that of a decedent's estate; or (2) as 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.

(1) The written notice herein provided for shall be by personal service or by registered mail to the last known address of the person to be notified.

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

(1) proofs of publication of the notice required by Sch.Co.O.C. Rule 5.10D(a);

(2) when and to whom written notice was given;

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

(e) Upon return of sale, the Court may enter a Decree of Confirmation Nisi and 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 a motion for reconsideration is filed within 20 days of the date signed.

Rule 5.11. Private Sale of Real Property.

(a) A petition of a fiduciary to sell real property at private sale shall also conform as closely as practicable to the requirements of Sch.Co.O.C. Rule 5.10 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 5.11.

(b) Any proposed private sale under Order of Court shall be given by advertisement one time in at least one newspaper of general circulation published in the County of Schuylkill 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 non-joining interested parties and shall be in the following form:

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

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

Notice is hereby given that _____ (personal representative—trustee—guardian) has filed in the office of the Clerk of the said Court his 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 objections are made to granting the same, the Court will be asked to take action upon the petition on the _____ day of _____, 20____, at _____ a.m., at the Schuylkill County Courthouse, Pottsville, Pennsylvania.

Attorney for Petitioner

(c) Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition is presented for confirmation of the proposed sale, whereupon the Court will make such order as it deems advisable under the circumstances. If no objections are made, or substantially higher offer presented, 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;

(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 5.12. Pledge, Lease, or Exchange of Real Property.

(a) A petition by a fiduciary to mortgage real property shall conform as closely as practicable to the requirements of Sch.Co.O.C. Rule 5.10 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.

Rule 5.13A. Inalienable Property. Public Sale by a Trustee or Personal Representative.

(a) The petition shall 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;

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

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

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

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

(6) sufficient facts to enable the Court to determine whether the proposed sale will be to the interest and advantage of the interested 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;

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

(b) Consents to the sale signed by interested parties shall be attached as exhibits.

Rule 5.13B. Inalienable Property. Public Sale by a Guardian of a Minor.

(a) The petition shall set forth in separate paragraphs:

(1) that the petitioner was appointed guardian of the estate of the minor, stating the method, date, and record of his appointment; or, if the estate of the minor consists of an interest in real property to the value prescribed by statute, that the petitioner is the natural guardian, or the person by whom the minor is maintained, stating the relationship of the petitioner to the minor;

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

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

(4) the age of the minor; the names of his next of kin; and the notice given them of the presentation of the petition;

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

(b) Consents to the sale signed by those interested parties who consent thereto shall be attached as exhibits.

Rule 5.14A. Petition for the Settlement of a Small Estate.

(a) A petition for the settlement of a small estate 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 name and address of the petitioner and his 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 or intestate laws, 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 his death and, if the claimant is the surviving spouse, that he has not forfeited his right to 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 none 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 Clerk; the amount of any inheritance tax assessed, and the date of payment thereof;

(11) a statement that 20 days written notice of intention to present the petition has been given to every unpaid beneficiary, heir, or claimant who has not joined in the petition, or to the Attorney General, if the decedent's heirs are unknown;

(12) a statement of distribution of the property, setting forth the persons entitled and their distributive shares

and requesting the discharge of the personal representative if letters have been granted.

(b) 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;
- (3) a copy of the inventory, if one was filed;
- (4) a copy of the notice given;
- (5) the inheritance tax voucher, or in lieu thereof a statement from the inheritance tax department that no tax is due.

PRE-HEARING AND HEARING RULES.

Rule 7.1. Pre-Hearing Conference.

In any action the Court, on its own motion or upon the motion of any party, may direct the attorneys for the interested parties to appear for a conference to consider simplification of the issues, possibility of obtaining admissions of facts and documents, and such other matters as may aid in the disposition of the action.

AUDITORS AND MASTERS

Rule 9.1. Notice of Hearings.

(a) The Court, on its own motion, or upon petition of the accountant, or of any other interested parties, 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. The Court may, at or after a conference on the issues or in lieu thereof, direct that each counsel of record and any interested parties not represented by counsel shall file with the Clerk a praecipe listing Witnesses and the anticipated length of the Master's or Auditor's hearing.

(b) The Clerk shall give written notice of an Auditor's or Master's appointment and give 20 days prior written notice of the time and place of the first hearing to all counsel of record and all interested parties not represented by counsel known to the Clerk.

(c) Notice of succeeding hearings, if any, given by the Auditor or Master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

(d) The hearing shall be held at a time and place indicated and not later than 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 9.5. Transcript of Testimony.

(a) Testimony given at an Auditor's or Master's hearing shall be stenographically recorded.

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

Rule 9.6. Notice of Filing Report.

(a) An Auditor or Master shall give 20 days notice in writing to all interested parties or their counsel of record of his intention to file his report with the Clerk on a day certain and shall file proof of the giving of notice with the Clerk. A copy of said report together with the proposed Decree of Confirmation Nisi shall accompany the notice to interested parties or their counsel of record. A copy thereof together with the transcript of testimony shall be made available in the office of the Clerk for inspection during the notice period.

(b) The Auditor or Master shall file his original Report and proposed Decree with the Clerk upon expiration of the 20 days notice period.

Rule 9.7. Report of Auditor or Master. Disposition. Procedure.

(a) The report of an Auditor or Master shall be transmitted to the Court for a Decree of Confirmation Nisi upon filing with the Clerk and shall become FINAL unless written motions for reconsideration thereto are filed within 20 days after the date of filing the report.

(b) Any interested parties shall have the right to file a motion for reconsideration of the report of an Auditor or Master within 20 days after the filing of the Decree of Confirmation Nisi thereof.

(c) In the event that a motion for reconsideration is filed, the Auditor or Master shall have a period of 20 days to re-examine the subject of the motion and shall file a supplemental report disposing of it seriatim, setting forth his reason or reasons for sustaining or dismissing the motion.

(d) Written notice of the filing of the supplemental report shall be given by the Auditor or Master to all interested parties or their counsel and proof of such notice shall be filed with the Clerk.

(e) The supplemental report shall become absolute upon filing with the Clerk, unless a written motion for reconsideration is filed within 20 days after the date of filing the supplemental report.

Rule 9.8. 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) Fees may be taxed as costs and the Auditor or Master shall have authority to recommend to the Court that the Auditor's or Master's fees follow the award as costs in appropriate cases.

(c) All interested parties shall deposit into the Clerk a payment on account of fees and costs in an amount to be fixed by the Court. Failure to deposit said funds as ordered may result in a dismissal of the issues or imposition of appropriate sanctions.

CLERK OF THE ORPHANS' COURT

Rule 10.1. Monies Paid.

(a) All monies paid or securities delivered into Court shall be deposited immediately 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.

(b) 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) The Clerk shall maintain in his office a Money in Court Docket in which shall be entered concisely 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.

(d) Acknowledgment of receipt of sums of money or property ordered to be paid or delivered by any award or decree of the Court may be made by appropriate release filed of record and noted in the docket entries.

Rule 10.4. Form of Appeal from Register of Wills' Decision.

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

- (1) the nature of the proceedings;
- (2) the reasons for the appeal;
- (3) the names and addresses of all interested parties, including those who have not been made parties to the record;
- (4) a request that a Citation be issued directed to all interested parties 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 Citation, the Clerk shall certify the record.

INCAPACITATED PERSONS

Rule 14.2A. Counsel for Incapacitated Persons.

(a) Upon the filing of a petition alleging incapacity and seeking appointment of a guardian, the Court shall appoint separate counsel for the alleged incapacitated person.

(b) Counsel, as guardian ad litem, for the alleged incapacitated person shall immediately investigate the matter; shall file pleadings and defend the petition, if contested; or shall report and recommend to the Court at the hearing on the petition as to those matters which affect the rights of the alleged incapacitated person.

Rule 14.2B. Reports of Guardian. Notice.

(b) In addition to the filing of an inventory, which must be filed within 90 days of appointment, the guardian of the estate, whether plenary or limited, shall file a report with the Court at least once within the first twelve months of the appointment and annually thereafter as to the administration of the ward's estate. The Court, in its discretion, may require that the report be filed more frequently. The form of the report shall be substantially the same as the Clerk's Form No. G-02 and G-03. A final report shall be filed within 60 days after the death of the ward.

(c) The guardian shall serve written notice of the filing of the report upon each care provider, next-of-kin, and all interested parties by first-class mail within 20 days of filing the report in substantially the following form:

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

ANNUAL REPORT OF GUARDIAN

In the matter of the Estate of _____, an Incapacitated Person. To the care providers, next-of-kin, and all interested parties in said affairs:

Notice is hereby given that _____, (guardian of the estate—guardian of the person) has filed in the office of the Clerk the annual report concerning the affairs of the ward. A copy of the report is available for inspection in the office of the Clerk, Schuylkill County Courthouse, 401 North Second Street, Pottsville, Pennsylvania.

Rule 14.2C. Guardians. Bond.

(a) Except in special circumstances, the Court will not appoint an individual as a guardian of the estate of an incapacitated person without setting bond, as the Court in its discretion, deems appropriate. (Exceptions made for special circumstances may include situations where a corporate guardian cannot be secured or the only asset of the incapacitated person is a regular benefit payment such as pension, Social Security, Veterans' Administration, public assistance, railroad retirement payments.)

Rule 14.2D. Notice.

(a) Proof of service of notice shall be presented at the hearing. The affidavit of service shall, in all cases, relate that the petition and citation were read to the alleged incapacitated person in the terms that person is most likely to understand.

(b) The completed notification form required by the Uniform Firearms Act, 18 Pa.C.S.A. § 6105, and available in the office of the Clerk, shall be presented at the hearing.

Rule 14.2E. Allowance for Maintenance and Support.

(a) A petition for an allowance for maintenance and support of an incapacitated person during incapacity or incompetency shall set forth:

- (1) the name of the guardian and the date of his appointment; if the petitioner is not the guardian, his relationship to the incapacitated person, and if not related, the nature of his interest;
- (2) a summary of the inventory, the date it was filed, and the nature and present value of the estate;
- (3) the address and occupation, if any, of the incapacitated person;
- (4) the names and addresses of the incapacitated person's dependents, if any;
- (5) a statement of all claims of the incapacitated person's creditors known to petitioner;
- (6) a statement of the requested allowance and the reason therefor; a statement of all previous allowances made by the Court;
- (7) if any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor that notice of the request for allowance has been given to that agency.

(b) The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets of the estate, shall conform to all State and Sch.Co.O.C. Rules.

ADOPTIONS

Rule 15.1A. Petition to Confirm Consent of Natural Parent. Notice. Copy of Consent to Natural Parent.

(a) A petition to confirm the consent of a natural parent to the adoption of a child under Section 2504 of the Adoption Act, where the natural parent executed the consent outside this Commonwealth, must include a certification by petitioner's attorney that the consent is in accordance with the laws of the jurisdiction where it was executed.

(b) A copy of the notice of the hearing prescribed by Section 2513(b) of the Adoption Act shall be a part of each petition. Service of the notice of hearing shall be as prescribed by Section 2504 of the Adoption Act and Pa.O.C. Rule 15.6.

(c) Petitioner's attorney shall certify at hearing that the natural parent has received a copy of the consent of adoption which he/she signed.

Rule 15.4A. Involuntary Termination of Parental Rights. Notice.

A copy of the notice of the hearing shall be a part of each petition. Service of the notice of hearing shall be as prescribed by Pa.O.C. Rule 15.6 and by Section 2513(b) of the Adoption Act.

Rule 15.4B. Involuntary Termination of Parental Rights. Service.

(a) Where service is attempted by registered mail at the natural parent's last known address pursuant to Pa.O.C. Rule 15.6 and the post office's return indicates that service was not made, petitioner may petition the Court to order service by publication.

(b) A petition for publication must outline efforts made by petitioner through postal authorities, relatives, mutual friends, or other means to locate the present address of the natural parents.

(c) Where the Court orders service by publication, it shall be made in a newspaper of general circulation one (1) time in the area of the natural parent's last known address. Proof of publication must be submitted at the hearing on the petition for involuntary termination.

(d) Where service of the hearing has been made by publication, the Decree Nisi shall be immediately published in the same newspaper of general circulation referred to in subparagraph (c) of this rule.

Rule 15.4C. Involuntary Termination of Parental Rights. Incarcerated Parent.

Where the natural parent is incarcerated, a petition for involuntary termination of that parent's parental rights must include a statement in the proposed Preliminary Order, submitted with the petition setting the hearing date, that if the natural parent desires to contest the petition, the parent may do so by requesting the issuance of a Writ of Habeas Corpus Ad Testificandum and/or by filing a petition for appointed counsel pursuant to 23 Pa.C.S.A. § 2313.

Rule 15.4D. Contested Involuntary Termination of Parental Rights. Appointment of Counsel for Minor Child. Costs.

(a) Whenever a proceeding for involuntary termination of parental rights is contested, an Answer shall be filed and the Court shall appoint counsel for the minor child or children in accordance with Section 2313 of the Adoption Act.

(b) In every contested involuntary termination proceeding, Petitioner and Respondent shall each deposit into the Clerk's office a payment on account for the transcript fees and for fees and costs of counsel for the minor in an amount to be fixed by the Court. Additional fees may be assessed, and said fees may be taxed as costs and may be ultimately charged against the interested parties as the Court deems appropriate.

(1) Respondent shall deposit said payment upon the filing of the Answer and Petitioner shall deposit said payment within 20 days after service of the Answer. Failure to deposit said funds may result in civil contempt of court or imposition of sanctions as the Court deems appropriate.

(c) All interested parties shall file a list of witnesses and the expected time required for hearing within 20 days after service of court order appointing counsel for the minor.

Rule 15.5A. Adoptions.

(a) When a Report of Intention to Adopt has been filed, a Petition for Adoption must include in all cases a statement that petitioner's attorney has made arrangements for a public child care agency or a consenting private child care agency or appropriate person designated by the Court to perform a Home Investigation on the adopting parent(s).

(b) If a public or private child care agency is to be used to perform the study, counsel for petitioners must provide that agency with a copy of the Report of Intent to Adopt or other similar information and take whatever steps are necessary to cause the required Home Investigation to be sent directly to the Orphans' Court Division.

(c) If an appropriate person is to be designated by the Court to perform the study, counsel for petitioners shall seek such appointment by presenting a motion and proposed order along with the petition for adoption. Subsequent thereto, counsel shall supply information and take whatever steps are necessary to cause the required Home Investigation to be sent directly to the Orphans' Court Division.

(d) A Home Investigation should contain in all cases:

(1) A report from the agency/designated person outlining the investigation made into the adopting parents' background and character;

(2) A report of criminal history from the Pennsylvania State Police;

(3) A certification from the Pennsylvania Department of Public Welfare certifying that the proposed adopting parent(s) are not registered as the perpetrator(s) of a founded or indicated report of child abuse;

(4) An FBI fingerprint certification.

(e) Where the Petition for Adoption contains the consent of the natural parent whose parental rights have not previously been terminated, petitioner's attorney shall certify at the hearing that the natural parent has received a copy of the consent of adoption which he/she signed.

[Pa.B. Doc. No. 17-755. Filed for public inspection May 5, 2017, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Collection Fee and Late Payment Penalty; 2017-2018 Registration Year

Notice is hereby given that in accordance with Pennsylvania Rules of Disciplinary Enforcement 219(d)(2) and 219(f), The Disciplinary Board of the Supreme Court of Pennsylvania has established the collection fee for checks returned as unpaid and the late payment penalty for the 2017-2018 Registration Year as follows:

Where a check in payment of the annual registration fee for attorneys has been returned to the Board unpaid, the collection fee will be \$100.00 per returned item.

Any attorney who fails to complete registration by July 31 shall be automatically assessed a non-waivable late payment penalty of \$200.00. A second non-waivable late payment penalty of \$200.00 shall be automatically added to the delinquent account of any attorney who has failed to complete registration by August 31.

SUZANNE E. PRICE,
Attorney Registrar
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 17-756. Filed for public inspection May 5, 2017, 9:00 a.m.]

SUPREME COURT

Modification of the Magisterial Districts within the 7th Judicial District; No. 414 Magisterial Rules Doc.

Order

Per Curiam

And Now, this 21st day of April, 2017, upon consideration of the Request of the President Judge of Seventh Judicial District (Bucks County) to eliminate Magisterial

Districts 7-2-03 and 7-1-06 and realign Magisterial Districts 7-1-07, 7-2-05 and 7-2-08 of the Seventh Judicial District (Bucks County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Request is granted. This Order is effective January 1, 2018. The judgeships for Magisterial Districts 7-2-03 and 7-1-06 shall not appear on the ballot for the 2017 municipal election. The Order of April 24, 2013 and Amended Order of July 3, 2013, shall remain in effect in all other respects.

The realigned Magisterial Districts shall be as follows:

Magisterial District 07-1-07	Hulmeville Borough
Magisterial District Judge	Langhorne Borough
Daniel E. Baranoski	Langhorne Manor Borough
	Penndel Borough
	Lower Southampton
	Township
	Middletown Township
	(Voting Districts Lower 1,
	2, and 13; Upper 2 & 4)
Magisterial District 07-2-05	Quakertown Borough
Vacant	Richlandtown Borough
	Trumbauersville Borough
	East
	East Rockhill Township
	Milford Township
	Richland Township
	West Rockhill Township
Magisterial District 07-2-08	Chalfont Borough
Magisterial District Judge	New Britain Borough
Regina Armitage-Smith	Perkasie Borough
	Sellersville Borough
	Silverdale Borough
	Telford Borough
	Hilltown Township
	New Britain Township

[Pa.B. Doc. No. 17-757. Filed for public inspection May 5, 2017, 9:00 a.m.]