



Dauphin County Bar Association

Continuing Legal Education – Cafeteria Session

Crowne Plaza Hotel
Friday, August 12, 2016
10:15 – 11:15 AM

Estate Planning and Probate Session:

Update on New Pennsylvania Supreme Court Orphans' Court Rules and Replacement Local County Orphans' Court Rules

Presented by Neil E. Hendershot, Esq.
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Harrisburg, PA

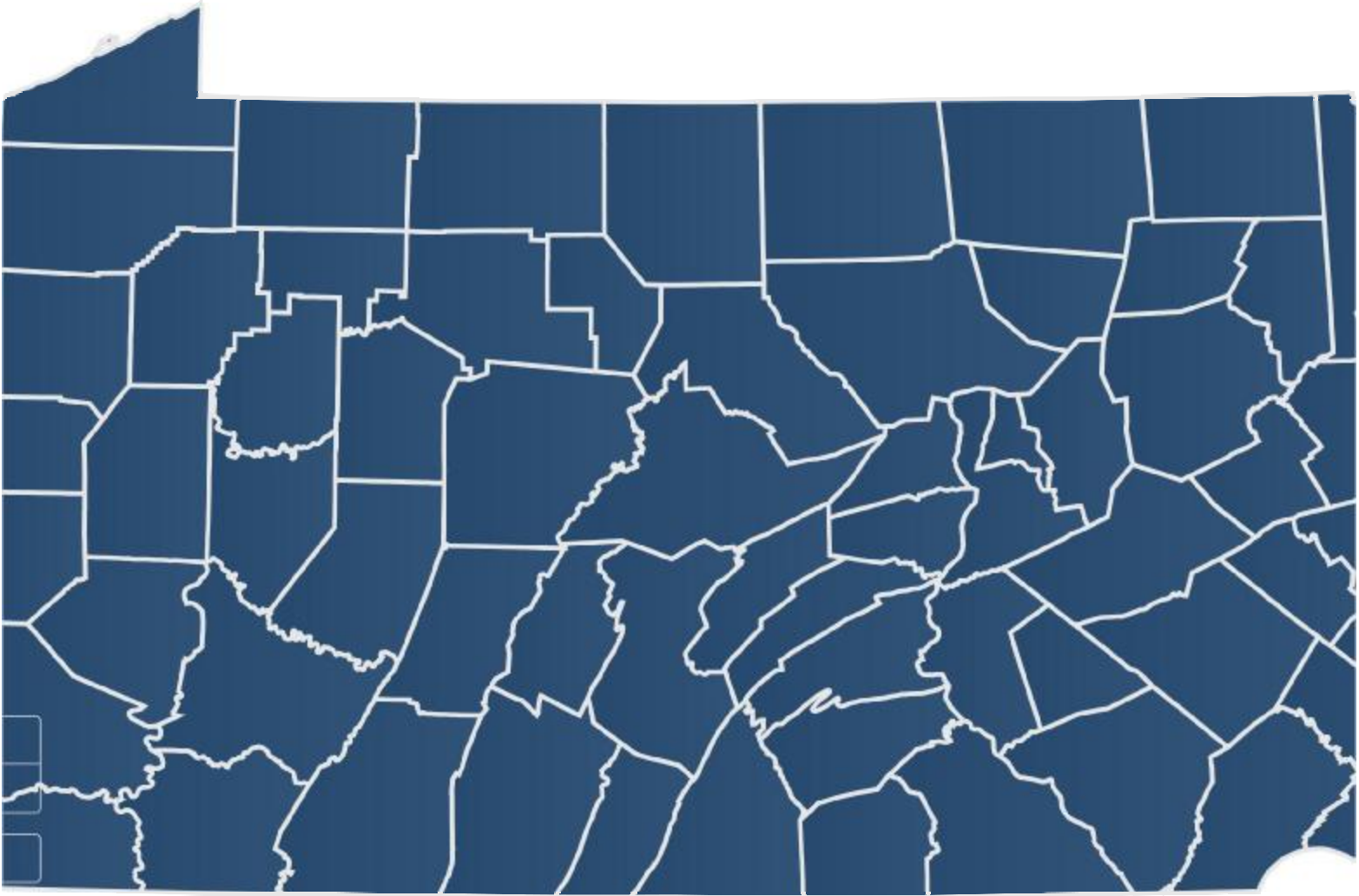
Attachments

1. *Unified Judicial System webpage for **Individual County Courts**.*
Source: <http://www.pacourts.us/courts/courts-of-common-pleas/individual-county-courts> (1 page)
2. *Order of Pennsylvania Supreme Court re **Local Orphans' Court Rules**, dated June 28, 2016.*
Source: <http://www.pabulletin.com/secure/data/vol46/46-29/1201.html> (2 pages)
3. *Dauphin County Courts, **Existing Local Orphans' Court Rules (as posted on 08/09/16)** reflecting local rules to be rescinded effective September 1, 2016.*
Source: <http://www.dauphincounty.org/government/Court-Departments/Local-Rules-of-Court/Pages/default.aspx> (4 pages)
4. *Unified Judicial System webpage for **Orphans' Court Procedural Rules Committee**.*
Source: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/orphans-court-procedural-rules-committee> (2 pages)
5. *Dauphin County Bar Association's **Orphans' Court Rules Working Group**, Membership List (1 page)*
6. *New **Dauphin County Orphans' Court Rules**, effective 09/01/16.*
Source: <http://www.pabulletin.com/secure/data/vol46/46-31/1295.html> (5 pages)
7. *New **Cumberland County Orphans' Court Rules**, effective 09/01/16.*
Source: <http://www.pabulletin.com/secure/data/vol46/46-32/1348.html> (7 pages)
8. *New **Lancaster County Orphans' Court Rules**, effective 09/01/16.*
Source: <http://www.pabulletin.com/secure/data/vol46/46-31/1302.html> (5 pages)
9. *New **Perry-Juniata Counties Orphans' Court Rules**, effective 09/01/16.*
Source: <http://www.pabulletin.com/secure/data/vol46/46-26/1061.html> (7 pages)

10. New **Lebanon County Orphans' Court Rules**, effective 09/01/16.
Source: <http://www.pabulletin.com/secure/data/vol46/46-32/1349.html> (11 pages)
11. New **Delaware County Orphans' Court Rules**, effective 09/01/16.
Source: <http://www.pabulletin.com/secure/data/vol46/46-31/1299.html> (17 pages)
12. New **Montgomery County Orphans' Court Rules**, effective 09/01/16.
Source: <http://www.pabulletin.com/secure/data/vol46/46-32/1350.html> (20 pages)
13. New **Philadelphia County Orphans' Court Rules**, effective 09/01/16.
Source: <https://www.courts.phila.gov/pdf/regs/2016/cp-pj-gcr-2016-2.pdf> (66 pages)
14. New **Statewide Orphans' Court Forms** effective Sept. 1, 2016 (posted on Tuesday, August 09, 2016, at approximately 5 PM).
Source: <http://www.pacourts.us/forms/for-the-public/orphans-court-forms> (3 pages)

Individual County Courts

Find a Court



THE COURTS

PART II. ORPHANS' COURT RULES

[231 PA. CODE PART II]

Order Rescinding and Replacing Rule 1.5 of the Orphans' Court Rules; No. 699 Supreme Court Rules Doc.

[46 Pa.B. 3804]

[Saturday, July 16, 2016]

Order

Per Curiam

And Now, this 28th day of June, 2016, upon the recommendation of the Orphans' Court Procedural Rules Committee, the proposal having been published for public comment at 45 Pa.B. 5384 (August 29, 2015):

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

1) Rule 1.5 of the Pennsylvania Orphans' Court Rules is rescinded and replaced in the following form.

2) Local rules of orphans' court procedure approved and effective prior to August 1, 2016 shall be compiled and published on the local court website in accordance with Pa.R.J.A. No. 103(d)(7), see No. 464 Judicial Administration Docket (June 28, 2016); No. 465 Judicial Administration Docket (June 28, 2016), no later than September 1, 2016 to remain effective.

3) Local rules of orphans' court procedure approved by the Orphans' Court Procedural Rules Committee as of August 1, 2016 that have not yet been published pursuant to Pa.O.C. Rule 1.5 shall be subject to the requirements of Pa.R.J.A. No. 103(d)(5)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

4) Local rules of orphans' court procedure approved by the Orphans' Court Procedural Rules Committee that have been published in the *Pennsylvania Bulletin* as August 1, 2016 but are not yet effective pursuant to Pa.O.C. Rule 1.5 shall become effective in accordance with Pa.R.J.A. No. 103(d)(5)(iii) and shall be subject to the requirements of Pa.R.J.A. No. 103(d)(6)—(7), see No. 465 Judicial Administration Docket (June 28, 2016).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective on August 1, 2016.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

(Editor's Note: The following rule replaces Rule 1.5 as published at 45 Pa.B. 7098 (December 19, 2015).)

Rule 1.5. Local Rules.

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

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

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

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

SUPREME COURT OF PENNSYLVANIA

CIVIL PROCEDURAL RULES COMMITTEE

CRIMINAL PROCEDURAL RULES COMMITTEE

JUVENILE COURT PROCEDURAL RULES COMMITTEE

MINOR COURT RULES COMMITTEE

ORPHANS' COURT PROCEDURAL RULES COMMITTEE

Report

On June 28, 2016, the Court amended Pa.R.J.A. No. 103 to consolidate the local rulemaking procedure in the courts of common pleas and replace the requirements currently set forth in Pa.R.C.P. No. 239, Pa.R.C.P. No. 239.8, Pa.R.Crim.P. 105, Pa.R.J.C.P. 121, Pa.R.J.C.P. 1121, and Pa.O.C. Rule 1.5 (collectively "Procedural Rules"). The Court also adopted new Pa.R.C.P.M.D.J. No. 216 to provide a cross-reference to the consolidated local rulemaking procedure in Pa.R.J.A. No. 103.¹



DAUPHIN COUNTY P E N N S Y L V A N I A

Ci:

[Dauphin County](#) > [Government Services](#) > [Court Departments](#) > [Local Rules of Court](#)

Local Rules of Court

[Civil Rules](#)

[Criminal Rules](#)

[Judge's Practices and Preferences](#)

[Juvenile Local Rules](#)

[Local Rules of Court](#)


[MDJ Rules](#)

[Orphans Court](#)

-  [1.1.1-Reserved](#)
-  [1.2.1-Local Rules](#)
-  [1.2.2-Docketing of Cases](#)
-  [1.2.3-Non-Jury Trials and Other Proceedings](#)
-  [1.2.4-Court Calendar](#)
-  [1.2.5-Argument Court](#)
-  [1.2.6-Inter Vivos Trust](#)
-  [1.2.7-Sureties](#)
-  [10.1.1-Reserved](#)
-  [10.2.1-Form of Appeal](#)
-  [10.2.2-Citation](#)
-  [10.2.3-Disposition-No Answer](#)
-  [10.2.4-Inheritance Tax Appeals](#)
-  [11.1.1-Reserved](#)
-  [11.2.1-Reserved](#)
-  [12.1.1-Additional Contents of Petition](#)
-  [12.1.2-Exemption Claimed in Personality - Appraisals](#)
-  [12.1.3-Exemption Claimed in Realty-Appraisals](#)
-  [12.1.4-Notice](#)
-  [12.1.5-Objections](#)
-  [12.1.6-Final Decree](#)
-  [12.10.1-Additional Requirements for Petition for Private Sale, Exchange or Granting of Options](#)
-  [12.10.2-Exhibits to Petition](#)
-  [12.10.3-Notice; Confirmation](#)
-  [12.10.4-Petition to Fix or Waive Additional Security](#)
-  [12.11.1-Mortgage or Lease of Real Property; Additional Requirements](#)

-  12.12.1-Additional Requirements for Petition Under Chapter 83 of the PEF Code
-  12.13.1-Reserved
-  12.14.1-Reserved
-  12.2.1-Additional Contents of Petition
-  12.2.2-Notice; Objections; Final Decree
-  12.3.1-Extension of Time-Contents of Petition
-  12.3.2-Extension of Time-Practice and Procedure
-  12.4.1-Reserved
-  12.5.1-Appearance in Court-Minor Over Fourteen
-  12.5.2-Additional Exhibits
-  12.5.3-Small Estates of Minors
-  12.5.4-Allowances from Minor's Estate
-  12.6.1-Exhibit to Petition
-  12.7.1-Contents of Petition for Discharge
-  12.7.2-Form of Petition for Discharge-Small Estates
-  12.8.1-Reserved
-  12.9.1-Additional Contents of Petition for Public Sale
-  12.9.2-Exhibits to Petition
-  12.9.3-Notice and Confirmation of Public Sale; Additional Security
-  13.1.1-Reserved
-  13.2.1-Reserved
-  13.3.1-Reserved
-  14.1.1-Reserved
-  14.2(c)-Adjudication of Incompetency and Appointment of a Guardian
-  14.2.1-Written Consent
-  14.2.2-Service
-  14.2.3-Notice
-  14.2.4-Inventory
-  14.2.5-Special Petitions for Allowances
-  14.3.1-Notice
-  14.3.2-Final Decree
-  14.4.1-Reserved
-  15.1.1-Practice and Procedure
-  15.2.1-Reserved
-  15.3.1-Reserved
-  15.4.1-Reserved
-  15.5.1-Reserved
-  15.6.1-Reserved
-  15.7.1-Reserved
-  17.1-Reserved
-  2.1.1-Notes
-  2.2.1-Reserved
- 2.3.1-Definitions

-  3.1.1-Reserved
-  3.3.1-Reserved
-  3.4.1-Reserved
-  3.5.1-Disposition
-  3.6.1-Reserved
-  4.1.1-Reserved
-  4.2.1-Reserved
-  4.3.1-Reserved
-  5.1.1-Legal Periodical
-  5.1.2-Form of Notice
-  5.1.3-Method-Presumed Decedents and Unascertained Persons
-  5.2.1-Method-When No Fiduciary
-  5.3.1-Reserved
-  5.4.1-Return of Notice-Additional Requirements
-  5.5.1-Reserved
-  6.1.1-Form
-  6.10.1-Filing and Service
-  6.11.1-Small Estates
-  6.12.1-Reserved
-  6.2.1-Reserved
-  6.3.1-Notice; Certification
-  6.4.1-Deadline for Filing Accounts
-  6.5.1-Reserved
-  6.6.1-Reserved
-  6.7.1-Reserved
-  6.8.1-Reserved
-  6.9.1-Contents
-  6.9.1-Filing-Time and Place
-  6.9.3-Additional Requirements
-  6.9.4-Advertisement
-  7.1.1-Exceptions-Generally
-  7.1.2-Exceptions-Time and Place of Filing
-  7.1.3-Exceptions-Form
-  8.1.1-Appointment
-  8.1.2-Notice of Hearings
-  8.1.3-Masters
-  8.2.1-Where Filed
-  8.3.1-Reserved
-  8.4.1-Reserved
-  8.5.1-Reserved
-  8.6.1-Completion of Report; Notice
-  8.7.1-Exceptions
-  8.7.2-Confirmation

 [8.8.1-Amount of Compensation](#)

 [9.1.1-Rules Pertaining to Official Examiners](#)

Rules of Judicial Administration



Orphans' Court Procedural Rules Committee

The Orphans' Court Procedural Rules Committee reviews current rules governing statewide practice and procedure in the Orphans' Court and recommends new rules as necessary.

Committee Members

John F. Meck, Esq., Chair
Honorable Lawrence J. O'Toole, Vice Chair
Charles J. Avalli, Esq.
Lori J. Cerato, Esq.
Eugene H. Gillin, Esq.
Jeffrey R. Hoffmann, Esq.
Rhona G. Nagelberg, Esq., *ex officio*
Rise' P. Newman, Esq.
Honorable Stanley R. Ott
Wayne M. Pecht, Esq.

Staff Members

Lisa M. Rhode, Counsel
James F. Mannion, Deputy Counsel
Elizabeth J. Knott, Assistant

Proposed Rules for Public Comment

Approved Rules

DESCRIPTION	EFFECTIVE DATE
Rules 1.1 through 13.3 and Rule 17 are rescinded and replaced; and Rules 14.1 through 16.12 of the Pennsylvania Orphans' Court Rules are amended Order - Dec. 1, 2015 Committee Report - Dec. 1, 2015	September 01, 2016
Order rescinding and replacing rule 1.5 Order - June 28, 2016 Report - June 28, 2016	August 01, 2016

Prior Proposed Rules

PROPOSAL	DEADLINE
<p>Proposed Adoption of New Pa.O.C. Rule 14.6 and Form G-05 Notice of Proposed Rule 14.6 and Form G-05 Explanatory Report - April 22, 2016 Deposition with Instructions</p>	June 20, 2016
<p>Proposed Rescission of Rules 15.1 through Rule 15.9 and replacement with the new rules of Chapter XV Chapter XV. Adoptions</p>	March 16, 2016
<p>Proposed Amendment of Pa.R.Crim.P. 105, Pa.Rs.J.C.P. 121 & 1121, and Pa.R.C.P. No. 239 with Rescission of Pa.R.C.P. No. 239.8</p>	October 01, 2015
<p>Publication Notice and Explanatory Report regarding Guardianship Forms Form G02 - Annual Report - Estate Form G03 - Annual Report - Person Form G04 - Guardian Inventory Form G05 - Certificate of Filing Form G06 - Deposition</p>	April 10, 2015
<p>proposing new rules 15.2, 15.7, 15.9, 15.10, 15.14, 15.15, 15.16, 15.17, 15.18, 15.19, and 15.21, and amending and renumbering current Rules 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8, and 15.9 Publication Notice - October 16, 2013</p>	December 27, 2013
<p>Proposed New Pa.O.C. Rules 1.1 – 11.6 Proposed New Pa.O.C. Rules 1.1 – 11.6 & Explanatory Notes</p>	June 13, 2013

OC Rules Working Group

03-Mar-16

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THE COURTS

DAUPHIN COUNTY

Promulgation of Local Rules; No. 1793 S 1989

[46 Pa.B. 4142]

[Saturday, July 30, 2016]

Order

And Now, this 15th day of July 2016, Dauphin County Orphans' Court Local Rules are promulgated as follows:

CHAPTER I. PRELIMINARY RULES

Rule 1.1. Short Title and Citation.

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

Rule 1.2. Construction and Application of Rules.

(a) The Dauphin County Orphans' Court Rules, in conjunction with the Supreme Court Orphans' Court Rules and all Acts of Assembly regulating the practice and procedure in the Orphans' Court, shall regulate the practice and procedure in the Orphans' Court Division of this Court.

Rule 1.6. Mediation by Agreement, Local Rule, or Court Order.

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a pleading before the Court, including an Account filed by a fiduciary for audit.

(b) In such request for mediation, all interested parties shall identify:

(1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;

(3) Names and information regarding any interested parties having diminished capacity or a legal disability whose interests must be adequately protected; and

(4) The scheduled date for the initial mediation conference.

(c) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(d) Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

(e) The Court will respect the confidentiality of the mediation process and the mediator's obligation of confidentiality.

(f) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(g) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L.1125, No.169 (35 P.S. §§ 10225.101—10225.5102), as may be amended.

(h) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

Rule 1.8(c). Docketing of Cases and Request for Assignment.

(1) All matters shall be filed with the Clerk of the Orphans' Court before they are entertained by this Court.

(2) When the issuance of a citation is requested, or when any petition, account, objection, preliminary objection, exception to an auditor's or master's report, or motion is ready to be scheduled for a hearing, argument, or disposition by the Court, or when a conference with the Court is requested, a party must file a "Request for Assignment" using the latest format, together with a proposed citation, rule, or order which contain a distribution legend. The Request for

Assignment must state:

- (a) the name and docket number of the case;
- (b) the title and date of the matter(s) ready for assignment;
- (c) whether all responsive pleadings have been filed or the time for responsive pleadings has elapsed;
- (d) if a hearing or argument is requested, the anticipated length of the hearing or argument;
- (e) a list of any related cases; and
- (f) the names, addresses, telephone numbers, and email addresses of all counsel and self-represented parties.

Request for Assignment forms shall be available from the Clerk of the Orphans' Court or online at www.dauphincounty.org.

Rule 1.9. Disposition.

The Court may hear testimony or appoint a master to hear the testimony and report his/her findings of fact, conclusions of law and recommendations to the Court.

Note: See PEF Code § 751

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.11. Appointment of Official Examiners.

(a) Rules pertaining to auditors in Chapter IX shall extend to official examiners insofar as applicable.

CHAPTER III. PETITION PRACTICE AND PLEADINGS

Rule 3.4. Form of Petition; Exhibits.

(c)(1) A typewritten version of a holographic writing offered for probate or interpretation shall be attached to a petition.

(2) The Court may require the filing of exhibits, consents or approvals to a petition as may be required by Pennsylvania Orphans' Court Rules, applicable statute, or other authority applicable to the petition, as may be deemed necessary in the discretion of the Court in exercise of its equity powers or application of equitable principles.

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

(e) *Disposition—No Answer.* If no answer is filed, upon proof of service of the citation, the Court may grant the relief requested.

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

Rule 4.2. Citation of Notice to Individuals and Entities.

(e) *Form of Notice*: Except as otherwise provided in these Rules or as provided by Act of Assembly, every notice shall contain at least the following information:

- (1) the caption of the case;
- (2) a description of the nature of the proceeding;
- (3) the date, time and place when the matter is to be heard by the Court to the extent then known;
- (4) the name of the decedent, settlor, incompetent or minor, if not disclosed by the caption;
- (5) the names and addresses of all fiduciaries; and
- (6) the name and address of counsel for each fiduciary.

Note: Pennsylvania Rules of Civil Procedure 422, 423 and 424 specify to whom notice shall be given when serving the Commonwealth of Pennsylvania and its subdivisions, partnerships and unincorporated associations, and corporations, respectively.

CHAPTER IX. AUDITORS AND MASTERS

Rule 9.1. Appointment; Notice of Hearings.

(a) An auditor or master may be appointed by the Court on its own motion or upon the petition of the accountant or of any interested party. All auditors and masters shall be members of the Bar of the Supreme Court of Pennsylvania.

(b) Once appointed, an auditor or master shall schedule a hearing and give notice thereof to all interested parties at least twenty days prior to the hearing. The notice of the auditor or master shall be given in accordance with Rule 4.2.

Rule 9.2. Filing of Report.

(a) Reports of auditors and masters shall be filed with the Clerk of the Orphans' Court and served on the attorney for each interested party.

Rule 9.6. Notice of Filing Report.

(a) At the time of filing of the report, the auditor or master shall notify, in writing, the attorney for each interested party of the date of filing of the report and recommendation. The notice shall state that the report and recommendation will be submitted to the court for review and confirmation if no timely exceptions are filed in accordance with Rule 9.7(a)(1).

Rule 9.7. Confirmation of Report.

(a)(1) *Exceptions.* Any exceptions to the report and recommendation shall be filed with the Clerk of the Orphans' Court within twenty days after receipt of the notice required by Rule 9.6(a) and served on the attorney for each interested party and the master or auditor. If exceptions are filed, the Clerk of the Orphans' Court shall forward the file to the Court Administrator's Office for assignment to a judge. No exceptions may be filed after the expiration of the twenty days without leave of Court for good cause shown.

(2) *Confirmation.* If no exceptions have been filed, the Clerk of the Orphans' Court shall forward the file to the Court Administrator's Office for assignment to a judge and the report and recommendation shall be confirmed absolutely.

Rule 9.9. Rules for Masters.

Rules pertaining to auditors shall extend to masters insofar as applicable.

CHAPTER X. REGISTER OF WILLS

Rule 10.4. Appeals from the Register of Wills.

(a) When an appeal is taken from a proceeding before the Register of Wills, the record of the matter shall be certified to the Court in accordance with 20 Pa.C.S. Section 907 (relating to certification of records to the Court). The appeal shall be in the form of a petition to the Court and shall set forth:

- (1) The nature of the proceedings before the Register.
- (2) The basis for the appeal, including the facts or circumstances upon which it is based.
- (3) The names and the addresses of all interested parties, including those who have not been parties of record.

These rules shall be effective September 1, 2016.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 16-1295. Filed for public inspection July 29, 2016, 9:00 a.m.]

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THE COURTS

CUMBERLAND COUNTY

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

[46 Pa.B. 4826]

[Saturday, August 6, 2016]

Order of Court

And Now, this 25th day of July, 2016, the following Rules of the Court of Common Pleas of Cumberland County, Pennsylvania, are hereby promulgated and adopted for use, effective September 6, 2016.

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

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

By the Court

EDWARD E. GUIDO,
President Judge

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

CHAPTER I. PRELIMINARY RULES

Rule 1.1. Short Title and Citation.

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

Rule 1.6. Mediation by Agreement, Local Rule, or Court Order.

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a Pleading before the Court, including an account filed by a fiduciary.

(b) Upon the filing of a Pleading before the Court, including an account filed by a fiduciary, the Clerk may provide the filing party with generic information, regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.

(c) The filing party may provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure, should include:

- (1) A brief description of the mediation process;
- (2) The anticipated benefits of mediation for litigants and associated professionals; and
- (3) Contact information to initiate mediation.

(d) All the interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.

(e) In such request for mediation, all interested parties shall identify:

(1) The proposed mediator and the proposed source of payment of fees and costs of the mediator;

(2) Names and contact information of all interested parties and any counsel who shall participate in the mediation;

(3) Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and

(4) The scheduled date for the initial mediation conference.

(f) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(g) Mediation shall not delay the required filing of any Pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

(h) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.

(i) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the

resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(j) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L. 1125, No. 169 (35 P.S. §§ 10225.101—10225.5102), as may be amended.

(k) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

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

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.6. Filing with the Clerk.

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

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

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

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

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

Rule 2.9. Confirmation of Accounts; Awards.

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

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

Rule 2.11. Appointment of Official Examiners.

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

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

CHAPTER III. PETITION PRACTICE AND PLEADING

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

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

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

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

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.16. Small Estates.

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

- (a) The name and address of the petitioner and petitioner's relationship to the decedent;
- (b) The name, date of death and domicile of decedent;
- (c) Whether the decedent died testate or intestate, the date of the probate of the will, if applicable, and the date of grant of letters, if any, and whether the personal representative has been required to give bond and, if so, the amount of the bond;
- (d) The name and relationship of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under PEF Code § 3101, or otherwise, and whether any of them is a minor, incapacitated or deceased with the name of his fiduciary, if any;
- (e) The person(s), if any, entitled to the family exemption and, if a claim therefore is made in the petition, any additional facts necessary to establish the right to the family exemption;
- (f) An inventory of the real and personal estate of the decedent, the value ascribed to each item, either incorporated in the petition or attached as an exhibit;
- (g) A list showing the nature, amounts and preferences of all unpaid claimants against the estate and indicating which claims are admitted;

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

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

(j) There shall be attached to the petition the following exhibits:

(1) The original of the decedent's will if it has not been probated, or a copy thereof if it has been probated;

(2) The joinders or consents of unpaid beneficiaries, heirs and claimants insofar as they are obtainable;

(3) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution or the family exemption; and

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

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

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

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

Rule 7.5. Argument Court.

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

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

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

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

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

CHAPTER IX. AUDITORS AND MASTERS

Rule 9.1. Notice of Hearings.

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

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

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

Rule 9.2. Filing of Report.

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

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

Rule 9.6. Notice of Filing of Report.

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

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

Rule 9.7. Confirmation of Report.

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

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

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

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

CHAPTER X. REGISTER OF WILLS

Rule 10.2. Petition Practice.

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

Rule 10.4. Appeals from the Register of Wills.

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

(a) The nature of the proceedings before the Register;

(b) The basis for the appeal, including the facts or circumstances upon which the appeal is

based; and

(c) The names and addresses of all interested parties, including any not a party of record.

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

[Pa.B. Doc. No. 16-1348. Filed for public inspection August 5, 2016, 9:00 a.m.]

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THE COURTS

LANCASTER COUNTY

Adoption of Rules of Orphans' Court; 2016-1570

[46 Pa.B. 4159]

[Saturday, July 30, 2016]

And Now, this 20th day of July, 2016, after obtaining approval from the Orphans' Court Procedural Rules Committee, the Lancaster County Court of Common Pleas hereby adopts the following Lancaster County Rules of Orphans' Court which shall be effective September 1, 2016:

Rule 1.1. Short Title and Citation.

These Rules shall be known as the Lancaster County Rules of Orphans' Court and may be cited as "L.C.R.O.C."

Rule 1.3. Definitions.

"*Lancaster County Orphans' Court Business Court*"—Lancaster County Orphans' Court shall hold Orphans' Court Business Court weekly in the Lancaster County Courthouse at 50 North Duke Street, Lancaster, Pennsylvania. The District Court Administrator shall publish notice of the location, dates and times of Orphans' Court Business Court in the weekly courtroom schedule. See also L.C.R.O.C. 1.9.

Rule 1.6. Mediation by Agreement, Local Rule or Court Order.

All interested parties in a matter may use mediation to resolve issues pending before the Court, and, upon either partial or complete resolution, may petition the Court to approve the agreement of all interested parties as an order or decree of the Court.

(a) The interested parties may engage the services of a mediator, either prior to or after any interested party has filed a pleading before the Court, including an Account filed by a fiduciary for audit.

(b) Upon the filing of a pleading before the Court, including an Account filed by a fiduciary for audit, the Clerk may provide the filing party with generic information, regarding availability of mediation for the resolution of disputes prior to adjudication by the Court.

(c) The filing party may provide such information to other interested parties. The information, which does not bind the Court, and which may be in the form of a standard brochure or reliable

Internet resources, should include:

1. A brief description of the mediation process;
2. The anticipated benefits of mediation for litigants and associated professionals; and
3. Contact information to initiate mediation.

(d) All the interested parties in a matter docketed before the Court may request to engage in mediation at any time during the pendency of the matter.

(e) In such request for mediation, all interested parties shall identify:

1. The proposed mediator, the qualifications of the mediator and the proposed source of payment of fees and costs of the mediator;

2. Names and contact information of all interested parties and any counsel who shall participate in the mediation;

3. Names and information regarding any interested parties having diminished capacity or a legal disability, whose interests must be adequately protected; and

4. The scheduled date for the initial mediation conference.

(f) All interested parties shall execute an agreement for confidential mediation, which is not inconsistent with this local rule, and which shall remain confidential.

(g) Mediation shall not delay the required filing of any pleading or ordered return dates, or the scheduling of Court hearings, unless specifically requested by joinder of the interested parties and so ordered by the Court.

(h) The Court will respect the confidentiality of the mediation process and of the mediator's obligation of confidentiality.

(i) Upon completion of mediation, all interested parties shall sign a memorandum of principal terms, which either shall acknowledge that no resolution was reached, or shall embody the resolutions attained. This memorandum of principal terms shall clearly state partial resolutions or complete resolution attained. The memorandum of principal terms shall include a list of unresolved issues to be determined by the Court. Where appropriate, the principal terms could provide for future review in light of changed circumstances or a change in the operative facts. The memorandum of principal terms agreed upon, or the statement of no resolution, shall be filed with the Court.

(j) In no event shall the terms agreed upon depart from or violate any provisions of applicable law, specifically including the Older Adults Protective Services Act, the Act of Dec. 18, 1996, P.L. 1125, No. 169 (34 P.S. §§ 10225.101—10225.5102), as may be amended.

(k) The interested parties may request that the Court approve the final mediated agreement, which embodies the principal terms agreed upon in the memorandum referenced above. The Court may grant approval in an order or decree. Alternatively, the Court may recommend any changes that the Court deems appropriate for approval. The parties to the mediation may accept

the Court's recommendations, in which event the terms agreed upon, as modified, shall be approved, or the parties may decline to accept the Court's recommendations, in which event the matter is deemed not to have resulted in an agreement.

Rule 1.9. Orphans' Court Business Court.

(a) *Purpose of Rule.* It is the intention of this Rule that Orphans' Court practice utilize Orphans' Court Business Court to ensure the expedited and streamlined management of all cases.

(b) Orphans' Court Business Court shall be held weekly. Matters not resolved at a particular Orphans' Court Business Court may be continued to another Orphans' Court Business Court date or other event to be scheduled by the Court.

Rule 2.5(d). Notice of Account Filing.

(1) All accounts shall be listed on the Audit List by the Clerk.

(2) The Audit List will be called for audit in accordance with Local Orphans' Court Rule 2.6.

Rule 2.6. Filing with the Clerk.

All Accounts shall be filed with the clerk.

(a) The Audit List will be called on the first Tuesday of every month. When that Tuesday falls on a holiday, the Audit List will be called on the first Wednesday of that month.

(b) Accounts to appear on a particular Audit List must be filed not later than noon of the third Wednesday preceding the session of Court when that Audit List will be called. When that Wednesday falls on a holiday, accounts must be filed not later than noon of the preceding business day.

Rule 3.5(b)(1). Notice Practice.

The notice to plead shall also include the following:

This matter is returnable to Orphans' Court Business Court on the __ day of _____, 201__ in Courtroom __ of the Lancaster County Courthouse, 50 North Duke Street, Lancaster, Pennsylvania. All counsel or unrepresented parties must appear.

Rule 3.5(d). Rule to Show Cause Practice.

(1) In all cases where personal jurisdiction is not required or had been previously obtained, or conferred by statute, and not addressed by any Pa.O.C. Rules or L.C.R.O.C., the petitioner may seek the entry of a rule to show cause.

(2) The issuance of a rule to show cause shall be discretionary with the Court.

(3) The petition shall be filed with the Clerk or presented in Orphans' Court Business Court and petitioner shall affix to the petition a proposed order substantially in the following form:

Rule

Upon consideration of the attached petition, it is hereby ordered that:

1. A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested.
2. The matter shall be returnable to Orphans' Court Business Court, Courtroom _____, Lancaster County Courthouse at 9:00 a.m. on the _____ day of _____, 201___. The respondent shall file an answer to the petition on or before that date.
3. The petitioner shall provide notice of the entry of this Order to all parties, at least 20 (twenty) days prior to _____, pursuant to Pa.O.C. Rule 4.2.

(4) A certificate of service, listing the names and addresses of those individuals receiving notice of the entry of the rule shall be filed by the petitioner.

(5) If any interested party (whether sui juris or not) is represented by another (including but not limited to attorneys, guardians or agents), the rule and petition shall be served upon the interested party's representative(s) pursuant to Pa.O.C. Rule 4.2.

(6) After the issuance of the rule, the disposition of the matter shall be in accordance with Pennsylvania Rule of Civil Procedure 206.7.

Explanatory note: Orphans' Court Business Court is utilized by Lancaster County to manage all pending matters. See L.C.R.O.C. 1.9(a). The Notice and Rule Practices of the County is to return matters to Orphans' Court Business Court for consideration. The dates provided in said Notice and Rules shall be set to be consistent with Pa.O.C. Rule 3.5.

Rule 4.2(e). Citation or Notice to Individuals and Entities.

The procedure of Pa.O.C. Rule 4.2 (Citation of Notice to Individuals and Entities) shall include Rules to Show Cause under L.C.R.O.C. 3.5(d).

Rule 7.1. Depositions, Discovery, Production of Documents and Perpetuation of Testimony.

No discovery or perpetuation of testimony is permitted except by petition for leave of Court or by agreement of the parties.

(a) A petition shall set forth the nature of the discovery sought, the reasons why the discovery is necessary and the time period within which discovery is to be completed. Upon receipt of a petition, any other party seeking discovery shall file a petition within five days unless all parties agree to proceed under L.C.R.O.C. 7.1(b).

(b) Parties may request leave of Court to conduct discovery by agreement. The agreement shall be signed by counsel and shall describe the proposed discovery and shall state the time for completion.

By the Court

DENNIS E. REINAKER,
President Judge

[Pa.B. Doc. No. 16-1302. Filed for public inspection July 29, 2016, 9:00 a.m.]

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THE COURTS

JUNIATA COUNTY

Repeal and Adoption of Rules of Orphans' Court Procedure; No. 201601972

[46 Pa.B. 3243]

[Saturday, June 25, 2016]

Order

And Now, May 31, 2016, it is hereby ordered and decreed that all Juniata County Rules of Orphans' Court Procedure filed prior to September 1, 2016 are repealed effective the date that the rules herein become effective. The Court hereby adopts the following Perry/Juniata County Rules of Orphans' Court Procedure to be effective as follows:

(1) All following local rules shall be effective September 1, 2016. It is further ordered that the District Court Administrator shall file:

(a) seven (7) certified copies of the Local Rules with Administrative Office of Pennsylvania Courts;

(b) two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) one (1) certified copy to the Civil Procedural Rules Committee, and the Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary and upon request and payment of reasonable costs of reproduction and/or mailing the Prothonotary shall furnish to any person a copy of the requested Local Rules.

By the Court

KATHY A. MORROW,
President Judge

Local Rules of Orphans' Court Procedure

Rule 1. Judges Local Rules.

Rule 1.1-1. Citation of Rules.

These rules shall be known as the Rules of the Court of Common Pleas of Perry and Juniata Counties, Orphans' Court Division, adopted pursuant to PA O.C. Rule 1.5.

Rule 1.2-1. Certificates of Appointment of Fiduciary.

The Clerk of the Orphans' Court Division shall not issue a certificate of the appointment of any fiduciary until the security, if required by the Court, has been entered.

Rule 1.2-2. Corporate Sureties. Approval.

Surety companies authorized to do business in this Commonwealth may become surety on any bond or obligation required to be filed in the Court; provided that a current certificate of the right to do business, issued by the Insurance Department of this Commonwealth; shall be on file with the Clerk of the Orphans' Court, and provided, further, that no bond shall be executed by any surety company after May of any year, until such certificate, issued after March 31 of that year, shall have been on file with the Court.

Rule 1.6. Orphans' Court Mediation Program.

(a) Cases filed in the Orphans' Court division may be ordered into the Orphans' Court Mediation Program by the Judge to whom the case is assigned, or by request of any of the parties by filing a Request for a Court Appointed Mediator. Upon filing a request for a Court appointed mediator, the Judge to whom the case is assigned, shall appoint said mediator.

(b) The mediators shall be practicing attorneys that are members of the Perry County Bar Association and/or the Juniata County Bar Association with an emphasis in their practice on Orphans' Court matters. A list of mediators shall be maintained by the District Court Administrator, and selected by the Court from said list.

(c) Upon appointment, the mediator shall schedule the mediation within forty five (45) days of the order of Court. The attendance of legal counsel, the parties and a representative, including an insurance carrier, with authority to enter into a full and complete compromise and settlement is mandatory, if applicable. If lead counsel, the parties or a representative fail to appear after having been properly notified, absent good cause, the mediation will be held as schedule.

(d) At least ten (10) days prior to the mediation, each party shall file and serve on the other party a mediation statement which must include the following: (1) a succinct explanation of the facts and relief sought; (2) significant legal issues that remain unsolved; (3) summary of medical and expert reports (if applicable); (4) itemized list of damages; and (5) settlement posture and rationale. Failure to file a mediation statement may result in sanctions if requested by the mediator.

(e) Each party to the case selected for mediation shall pay a mediation fee to be made payable to the Clerk of the Orphans' Court and submitted to the Clerk of the Orphans' Court. The mediation fee shall be set by administrative order, and information with regard to the fee shall be available from the Clerk of the Orphans' Court.

(f) If the case has not been resolved, within fourteen (14) days from the date of the mediation, the mediator shall send a report setting forth the mediator's assessment of the case and the mediator's recommendation regarding settlement. A copy of the report shall be provided to and maintained by the District Court Administrator until the case is closed.

(g) If the case is resolved and a settlement agreed upon, the mediator shall send a letter to the Judge, with copies to counsel and the District Court Administrator.

(h) The mediator shall not be subpoenaed or requested to testify or produce documents by any party in any pending or subsequent litigation arising out of the same or similar matter. Any party, person, or entity that attempts to compel such testimony or production shall be liable and indemnify the mediator and other protected participants for all reasonable costs, fees and expenses. The mediator shall have the same limited immunity as judges pursuant to the applicable law as it relates to Common Pleas Judges. Notwithstanding the preceding subsections the court may in its discretion set a case for an alternative dispute resolution ("ADR") before a private mediator. The method of selection of the private mediator shall be in the discretion of the Court. All parties shall bear equally the costs of any Court-ordered private mediation; provided, however, that the Court shall take appropriate steps to assure that no referral to ADR results in an unfair or unreasonable economic burden on any party.

1.6-1. Forms.

Attached to these rules, is the form to be used for the Request for a Court Appointed Mediator in Orphans' Court matters.

Rule 5.10(b). Public Sale of Real Property.

(a) After allowance of public sale of real property, the petitioner shall, in addition to such notice as required by law, give notice of the sale to each party in interest. The notice may be given by first class mail and must be given at least twenty (20) day prior to the date of the proposed sale. In addition, notice of the sale must be published at least one time in a newspaper of general circulation in the county where the real property is located.

(b) The published public notice of the sale shall contain the following information:

(i) the address of the property and the municipality in which it is located;

(ii) the area of the property in terms of acres or square feet;

(iii) a list of the improvements of the property, if one is available;

(iv) a deed or survey description of the property, if one is available

(v) the name of the grantee of the last recorded deed for the property, together with the deed/record book or instrument number.

Rule 5.16-1. Procedure under § 3102.

Probate, Estates and Fiduciaries Code of 1972.

(a) *Contents of Petition.* A Petition under section 3102 of the Probates, Estates and Fiduciaries Code of 1972 (20 P.S. Section 3102), for the settlement of a small estate shall set forth

- (1) the name, date of death and residence of decedent;
- (2) the name and address of the petitioner, his relationship to the decedent and whether or not he formed a part of the decedent's household at the date of his death;
- (3) if petitioner be the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in the case of a common law marriage, all averments necessary to establish the validity of such marriage;
- (4) whether the decedent died testate or intestate; where, when and to whom letters were granted, and the amount of bond given by the personal representative;
- (5) the names, relationships and a brief description of the interest of all persons entitled to share in the decedent's estate under the will or intestate laws, stating which are minors, incompetents or deceased, with the names of their fiduciaries, and whether any of them has received or retained any property of the decedent by payment of wages under Section 3101 of the Probate, Estates and Fiduciaries Code (20 P.S. Section 3101) or otherwise;
- (6) the person entitled to the family exemption, and the facts on which the claim is based;
- (7) an itemized statement of the property of the decedent and an appraisal thereof;
- (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 and all unpaid claimants of whom the petitioner has notice or knowledge; the nature and amount of each claim; and whether such claims are admitted;
- (10) that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register; the amount of any inheritance tax assessed; and the date of payment thereof;
- (11) that ten 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; and
- (12) a prayer for distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative and the release of their surety, if letters have been granted and advertised.
 - (b) *Exhibits*. The following exhibits will be attached to the petition;
 - (1) a copy of decedent's will;
 - (2) consents of the surety, and of unpaid beneficiaries, heirs and claimants who consent thereto;
 - (3) a copy of the notice given; and
 - (4) the inheritance tax voucher, or in lieu therefore a statement from the Pennsylvania Department of Revenue that no tax is due.

(c) *Appraisal*. No formal appraisal is required, unless ordered by the court.

Rule 5-16-2. Procedures Under § 3546.

Probate, Estate and Fiduciaries Code of 1972.

(a) *Contents of Petition*. A petition under section 3546 of the Probate, Estates and Fiduciaries Code of 1972 (20 P.S. Section 3546) for the determination of title shall set forth

- (1) the name of the petitioner and his relationship to the decedent;
- (2) the facts on which the claim of the petitioner is based;
- (3) whether the decedent died testate or intestate, and where, when and to whom letters were granted;
- (4) a description of the real property located within the Commonwealth, and the place, book and page and/or instrument number of recording of the last deed thereto.;
- (5) the names and addresses of all known creditors and parties in interest; and
- (6) the facts material to a determination of the title.

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

- (1) the notice which has been given to creditors, and parties in interest; if the heirs of the decedent are unknown, a copy of the notice given to the Attorney General; and a
- (2) a copy of the decedent's will.

Rule 9.1. Notice of Hearings.

Notice of the initial hearing shall be given by regular mail to the counsel of record for the Estate, counsel of record for the exceptant(s), each heir at the last known address, to each unpaid creditor and to the Department of Revenue, the Department of Human Services, or other agency of the Commonwealth of Pennsylvania, if such Department or agency has, according to the information of the Clerk, a claim against the estate to be audited. If a party is unrepresented, notice shall be mailed to the last known address of record.

To the extent possible, the auditor shall expedite the hearings, and any party in interest may apply to the Court for an order on the auditor to proceed and file a report or else give the reasons for the alleged delay, if there be an unreasonable delay.

9.1.-1. Pre-Hearing Conference.

The auditor shall schedule a pre-hearing conference at which time the accountant or his attorney shall present to the auditor all written notices of claims of creditors, legatees, devisees, next of kin and others interested in the estate given the accountant and also a list of all other creditors of which he/she has any information and mention the claims of creditors he recommends for allowance.

Rule 9.6. Notice of Filing Report.

When the auditor has his report completed, he/she shall present it to the Court along with a proposed Decree Nisi for consideration by the Court. A copy of said report and the signed Decree Nisi shall be mailed via regular mail to all attorneys who appeared before him and all exceptants who appeared without attorneys.

9.7. Confirmation of Report.

When an auditor's report is presented to the Court, it will be confirmed nisi and filed. Exceptions to the Report must be filed within fifteen (15) days of the date of the Decree Nisi. When no exceptions to an auditor's report are filed within the said period, the Clerk of the Orphans' Court shall endorse the absolute confirmation on the report.

9.8-1. Security for Expenses and Fees.

The Estate and exceptant(s) shall each provide to the Auditor an estimate of the amount of time needed to present their case. Thereafter, the Auditor shall recommend to the Court an amount to be held in escrow by the Register of Wills. Said deposit shall be applied to the Auditor's bill of costs as submitted by the Auditor and approved by the Court.

If exceptions are filed to the Report prior to confirmation absolute or if an appeal is filed after the confirmation, the party filing the same must pay in full all outstanding auditor's fees and costs as set forth on the Auditor's bill of costs, regardless of the recommendation of the Auditor as to allocation of the payment. The Court may address the issue of auditor's fees and costs at the time of the disposition of the exceptions or appeal.

10.1.-1. Certification of Record.

(a) *Contents of Petition.* A Petition to fix a date for a hearing from a certification of record to the court from the Register shall be promptly presented to the court and shall set forth;

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

(2) the basis for the certification of record; and

(3) the names and address of all parties in interest including those who have not been made parties to the record.

(b) *Certification by Register.* When the record has been certified by the Register, the petition required by subparagraph (a) shall be presented by the party who instituted the contest, or, in special circumstances, as the Court may direct.

(c) *Citation.* Upon allowance of the petition, a citation will be issued, directed to all parties in interest, including those not represented on the record, to show cause why the matter upon which the certification is requested or based, as the case may be, should not be determined by the Court on a day certain therein indicated.

10.4. Appeals for the Register of Wills.

(a) *Contents of Petition.* When an appeal is taken from a judicial act of, or proceeding before, the Register, the appellant shall promptly present a petition to the Court, which shall set forth:

- (1) the nature of the proceeding before the Register;
- (2) the basis for the appeal; and
- (3) the names and address of all parties in interest, including those who have not been made parties to the record.

(b) *Citation.* If the petition sets forth a prima facie case, a citation will be issued, directed to all parties in interest, including those not represented on the record, to show cause why the appeal should not be sustained and the judicial act or proceeding complained of be set aside.

10.4.1. Grant of Jury Trial.

(a) On appeal from the Register, or in a proceeding removed from or certified by the Register, the Court in its discretion may impanel a jury at any stage of the proceedings and forthwith proceed with a jury trial.

(b) On appeal from the Register, or in a proceeding removed from or certified by the Register, the Court in its discretion may, either at the conclusion of all the evidence presented by proponents and contestants or before all such evidence has been produced, when it is satisfied that sufficient evidence has been presented so as to warrant, grant a jury trial at a future date.

(c) If a jury trial is granted, as provided in subparagraph (a) or (b) hereof, the Court shall enter a decree specifying the issues to be tried, which may be in the form agreed upon by the parties, or as the court shall determine.

[Pa.B. Doc. No. 16-1061. Filed for public inspection June 24, 2016, 9:00 a.m.]

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THE COURTS

LEBANON COUNTY

Orphans' Court Rules

[46 Pa.B. 4829]

[Saturday, August 6, 2016]

CHAPTER 1. LOCAL RULES OF ORPHANS' COURT DIVISION

1.1. Short Title and Citation.

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

1.7. Attorneys: Members of the Bar and Practice.

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

CHAPTER 2. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

2.9. Confirmation of Accounts. Awards.

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

2.11. Appointment of Official Examiners.

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

CHAPTER 3. RESPONSIVE PLEADINGS

3.5. Rule to Show Cause.

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

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

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

(CAPTION)

ORDER OF COURT

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

1. A Rule is issued upon the Respondent to show cause why the Petitioner is not entitled to the relief requested;
2. The Respondent shall file an answer to the petition within twenty (20) days of service upon the Respondent;
3. The petition shall be decided under PA.R.C.P. No. 206.7;
4. Depositions shall be completed within _____ days of this date;
5. Argument shall be held on _____, 20_____ in Courtroom _____ of the Lebanon County Courthouse; and
6. Notice of the entry of this order shall be provided to all parties by the Petitioner.

BY THE COURT:

_____ J.

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

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

(F) If an answer is filed raising disputed issues of material fact, the Petitioner may take

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

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

CHAPTER 5. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

5.2. Family Exemption.

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

B. Personal Property.

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

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

3. Notice of the filing of any such petition shall be mailed or delivered to the personal representative or representatives of the decedent's estate, if any; to the attorney for the estate, if any; to the person having possession of the personal property claimed if the possessor is other than the Petitioner or the personal representative; and to all interested parties in said estate as surviving spouse, beneficiary or next of kin. A copy of said notice shall be attached to said petition. Such notice need not be given to any person whose waiver of said notice is attached to the petition.

4. If no objection or answer containing objections to the allowance of said claim is filed with said Court within twenty (20) days after the filing of said petition, the Court may grant the prayer

of the petition and fix a time and place for a hearing on said petition and thereafter proceed to determine the matter, with or without the appointment of appraisers to determine the value of said articles.

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

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

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

C. Real Estate.

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

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

(k) Whether the Petitioner requests the allowance prior to the confirmation of the account filed in said estate or to the audit thereof.

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

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

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

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

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

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

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

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

(a) the names and addresses of the appraisers;

(b) the place, time and date of said appraisal;

(c) the description of the property appraised;

(d) the approximate time consumed by the appraisers to perform all their duties pertaining to said appraisal;

(e) such additional facts as may be necessary to acquaint the Court with all information and date necessary for the Court to act upon said report.

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

8. If objections are filed to said report prior to the confirmation thereof, the Court shall fix a time and place for the hearing of said objections and then either dismiss said objections and set apart said real estate or sustain the objections and appoint two other appraisers or take such action as the Court may deem just and appropriate.

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

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

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

5.3. Intestate Share to Surviving Spouse.

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

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

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

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

7.1. Depositions, Discovery and Production of Documents.

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

7.2. Motion for Judgment on the Pleadings.

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

7.3. Motion for Summary Judgment.

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

CHAPTER 9. AUDITORS AND MASTERS

9.0. Appointment and Compensation of Auditors and Masters.

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

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

1. The identity and residence of the Petitioner;
2. The relationship if any of the Petitioner to the decedent;
3. In the event the decedent left a Will, a copy of the Will or deed of trust is to be attached as an exhibit to the petition;
4. In the case of intestacy, the identity and address of all of the heirs of the decedent entitled to share in the estate;
5. A statement disclosing the gross amount of the estate and the net amount available for distribution;
6. A brief statement as to the legal or factual issues to be determined by the Auditor or Master; and
7. The identity of all local counsel as attorney for any interested parties.

C. No suggestion, stipulation, motion or agreement by the parties or their counsel as to the identity of the person to be appointed Auditor will be considered under any circumstances.

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

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

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

9.1. Notice of Hearing.

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

9.5. Transcript of Testimony.

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

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

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

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

9.6. Notice of Filing Report.

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

B. *Objection.* Any interested party shall have the right to file objections to the report of an

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

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

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

9.7. Confirmation of Report.

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

CHAPTER 10. REGISTER OF WILLS

10.4. Appeals from the Register of Wills.

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

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

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

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

CHAPTER 15. ADOPTION

15.1. Hearings.

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

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

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

1. The Petitioners.
2. The person whose adoption is sought.
3. All persons whose consent is necessary under the adoption laws, except the natural parent or parents who have executed a proper legal consent and specifically waive their right to be present.
4. Such other persons as the Court may direct by special order.

D. Those required to be present at an adoption hearing shall be examined under oath to ascertain the truth of the facts set forth in the petition and a record made of their testimony. The record shall not be transcribed unless ordered by the Court.

CHAPTER 18. MARRIAGE

18.1. Waiver of Waiting Period.

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

18.2. Minors Under the Age of Sixteen.

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

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

19.1. The Clerk of Court—Orphans' Court Division, shall list for general call at the first civil argument court held in September of each year, all Orphans' Court matters in which no steps or proceedings have been taken for two years or more. Prior thereto, they shall give notice thereof to counsel of record and to the parties for whom no appearance has been entered as provided by Pa.R.J.A.1901(c). If no action is taken or written objection is filed in such matter prior to the commencement of the general call, the Clerk of Court—Orphans' Court Division, shall strike the

matter from the list and enter an order as of course, dismissing the matter with prejudice for failure to prosecute under the provisions of this Rule. If no good cause for continuing the matter is shown at the general call, an order shall be entered forthwith by the Clerk for dismissal.

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

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THE COURTS

DELAWARE COUNTY

Orphans' Court Local Rules; Doc. No. 12-5040

[46 Pa.B. 4148]

[Saturday, July 30, 2016]

Order

And Now, this 20th day of July, 2016, it is Hereby Ordered and Decreed that all current Delaware County Orphans' Court Rules and Forms are rescinded effective September 1, 2016 and the following Delaware County Orphans' Court Rules are adopted and shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

CHAD F. KENNEY,
President Judge

CHAPTER I

Del.Co.O.C. Rule 1.1A. Short Title and Citation.

The Delaware County Orphans' Court Rules shall be known as such, shall be referred to individually as "Local Rule" and shall be cited as "Del.Co.O.C. Rule ____."

Del.Co.O.C. Rule 1.2A. Legal Publication.

The *Delaware County Legal Journal* is designated by the court as the legal publication for the advertising and publication of legal notices, in accordance with Pa.R.C.P. 430.

Del.Co.O.C. Rule 1.7A. Entry and Withdrawal of Counsel.

(1) In addition to the methods set forth in Rule 1.7, written appearance of any attorney may be entered by entering counsel's information on a legal paper filed of record.

(2) Written entry of appearance, however made, shall contain the attorney's name, Supreme Court Identification number, address and telephone number, and may contain a fax number and/or an email address.

(3) Inclusion of a fax number and/or email address in the written entry of appearance constitutes counsel's agreement to accept service of Legal Paper other than Citations or Notices by fax and/or email in accordance with Rule 4.3(c) and (d), and to accept service of notices, orders and opinions from the court by fax and/or email in accordance with Rules 4.3 and 4.5.

CHAPTER II

Del.Co.O.C. Rule 2.6A. Date of Filing.

An account shall be filed not later than the fifth Tuesday preceding the day on which it is called for audit, except when that Tuesday falls on a Court holiday, in which event such account must be filed not later than the day preceding the Court holiday.

Del.Co.O.C. Rule 2.7A. Audits and Claims.

(1) An appearance slip shall be filed on behalf of each party represented at audit. Counsel for the accountant, for any objector, or for any challenged claim shall be present at the call of the Audit List unless excused by the Court.

(2) Testimony or argument will not be heard at the call of the Audit List. A later time for hearing or argument will be fixed by the Court if deemed necessary by the Court when a claim against an estate is not admitted by accountant or is contested by any interested party, or if a question of law is submitted for adjudication.

(3) Objections may be made orally at the call of the Audit List, in which case the objections shall thereafter be filed in writing within 10 days with notice as provided in Pa.O.C. Rule 2.7(a).

Del.Co.O.C. Rule 2.9A. Schedules of Distribution.

(1) *Filing.* The Court, when it appears advisable or when requested, will direct the attorney for accountant to prepare and file a schedule of distribution. Schedules shall be certified by the attorney for accountant to be correct and in conformity with the adjudication, and shall be filed with the Clerk. When a schedule is approved in writing by interested parties, the attorney for accountant shall also certify whether or not such parties constitute all of those affected thereby.

(2) *Confirmation.* If no objections are filed by the 20th day after the schedule was filed, it will be confirmed, as of course. Schedules approved in writing by all interested parties affected thereby will be confirmed, as of course, on the day filed. Thereupon the accountant shall have authority to make necessary assignments and transfers of any assets awarded in kind.

(3) *Objections.* Objections to schedules of distribution shall be filed with the Clerk, and may not be filed later than the twentieth day after the schedule was filed, unless said period of twenty (20) days is extended by the Court. Such objections may raise questions relating only to the schedule itself, and shall in no event raise questions which were or could have been raised previously, by claims, or by objections to the account or petition for adjudication/statement of proposed distribution. Objections to schedules shall be in writing, numbered consecutively, signed by the objector or the objector's attorney and each objection shall:

(a) be specific as to description and amount;

(b) raise but one issue of law or fact, but if there are several objections to items included in or omitted from the schedule relating to the same issue, all such objections shall be included in the objection; and

(c) set forth briefly the reason(s) in support thereof.

(4) *Partial Confirmation.* Where the matters which are the subject of a schedule of distribution are so separate and distinct that an objection to any of them, whether sustained or dismissed, cannot affect the others, the confirmation of such schedule shall not be suspended except to the extent of the objection. Distribution may proceed as to all other matters and the usual process to enforce it may issue.

(5) *Additional Receipts and Disbursements.* Receipts and disbursements since the date to which the account was stated shall be set forth in the schedule of distribution.

Del.Co.O.C. Rule 2.9B. Schedules of Distribution—Notice of Filing.

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

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

(b) distribution of assets which were awarded in kind in the adjudication, but which were neither specifically bequeathed to the distributee nor elected by him to be taken in kind or which were revalued.

(2) *Time and Method of Notice.* Such notice shall be given no later than the day of the filing of the schedule, by notice to all the interested parties or their attorneys.

(3) *Return of Notice.* The attorney for accountant shall certify on the schedule that due notice of the filing thereof was given as required by this rule and he shall attach a copy of the notice and a list of those to whom notice was given.

Del.Co.O.C. Rule 2.9C. Objections to Schedule of Distribution—Notice of Filing, Time and Method, and Return.

(1) *To Whom Given.* Notice of filing of objections to the schedule of distribution shall be given to the accountant and to all interested parties affected thereby or their attorneys.

(2) *Time and Method of Notice.* Notice shall be given no later than the day of the filing of the objections to the schedule to the accountant and all other interested parties affected thereby or their attorneys. A copy of the objections shall be included with the notice to the accountant or the accountant's attorney.

(3) *Return of Notice.* At the time of the filing of the objections, the attorney for the objector shall file a certification that due notice of the filing thereof was given as required by these rules,

to which certification there shall be attached a copy of said notice as well as the names and details of the notice given to the parties notified or their attorneys.

Del.Co.O.C. Rule 2.9D. Distribution of Real Estate.

(1) *When no partition or allotment required, or when distributees agree to schedule.*

Schedules of distribution shall include separate awards of real estate to the parties entitled thereto, whether individually or, where the circumstances require, in undivided interests. The real estate so awarded shall be described in the same detail and with the same particularity as is commonly required to be included in deeds and should recite how the title was acquired by decedent. Approval of schedules of distribution shall be in the nature of confirmation of title in the respective distributees, and the Clerk is authorized to certify to integral excerpts or extracts from such schedules, so approved, for purposes of recording such devolutions of real estate in the Office of the Recorder of Deeds.

(2) *Partition or Allotment of Real Estate Requested by Accountant or by a Party in Interest.*

Whenever partition or allotment of real estate is requested by the accountant or a party in interest, the request shall be made at the audit and the Court shall make such order, including a direction to submit an information certificate, issued by an attorney or a responsible title insurance company, showing the current state of the title, the preparation of a schedule of distribution if required, notice to the parties, and fixing the dates of further hearings, as may be necessary under the circumstances to protect all parties in interest.

CHAPTER III

Del.Co.O.C. Rule 3.4A. Proposed Form of Decree.

(1) All petitions (excluding Petitions for Adjudication/Statements of Proposed Distribution and excluding petitions for citation which are specifically addressed in Pa.O.C. Rule 3.5(a)) shall have a proposed preliminary decree which provides wording for a hearing to be scheduled, should the Court deem it necessary, affixed to the Petition.

(2) The proposed form of decree should be entitled: Decree.

Del.Co.O.C. Rule 3.5A. Citation Practice.

(1) Unless otherwise stated in both the Court's decree and in the citation, the return date set forth in the citation shall represent a return date only, for filing return of service and/or notice, and for the filing of any response to the pleading pursuant to which the citation has been issued. Upon request of counsel or by order of court a hearing may be scheduled after the return date.

(2) A copy of the preliminary decree signed by the Court shall be served upon each cited party along with the citation and a copy of the petition as set forth in Pa.O.C. Rule 3.5(a)(2).

Del.Co.O.C. Rule 3.5B. Notice Practice.

(1) If a petition is filed and a preliminary decree setting a hearing date and/or a return date is issued without citation by the Court, service of the preliminary decree and the petition shall be

made on all interested parties in accordance with Pa.O.C. Rule 4.3(a).

Del.Co.O.C. Rule 3.5C. Uncontested Petitions.

(1) If a petitioner believes there will be no objections, by creditors and/or parties in interest, to a petition being filed, a petitioner may state this in the petition and send notice pursuant to Pa.O.C. Rule 4.2 to all such creditors and/or parties at least twenty (20) days prior to filing said petition advising said creditors and/or parties in interest of the projected date of filing said potentially unopposed petition. In the notice, petitioner should advise said creditors and/or parties in interest that petitioner intends to state to the Court in the petition that said petition is unopposed and any creditor or party in interest who disagrees with petitioner's position that the petition is unopposed must notify petitioner or petitioner's counsel on or before the projected date of filing of the petition. If no creditor or party in interest notifies petitioner or petitioner's counsel by the projected filing date that the petition is opposed, the Court may rule on the petition without scheduling a hearing thereon, or may schedule a hearing if the Court believes a hearing is necessary for any reason.

(2) The date of the notice shall be the date of mailing, or service of the notice. A certification by counsel listing the persons notified and stating the date and manner of service, together with a copy of the notice given, shall be attached to the petition.

(3) If all potential creditors and/or parties in interest are in agreement and have signed consents to the proposed petition, the petitioner may attach consents to the petition and advise the Court that all parties in interest have consented to the petition. Under these circumstances, the petitioner does not need to give twenty (20) days notice of the filing of the proposed petition. Upon receipt of the petition, wherein petitioner has advised the Court that all creditors and/or parties in interest have signed consents, and said consents are attached to the petition, the Court may rule on said petition without scheduling a hearing thereon, or may schedule a hearing if the Court believes a hearing is necessary for any reason.

(4) The above manner of proceeding (without a hearing) is not available in matters wherein the relevant statutes require a hearing.

Del.Co.O.C. Rule 3.12A. Necessary Identification Information of Attorney.

The telephone number and Pennsylvania Supreme Court Identification Number of each signing attorney must be included on all pleadings and responsive pleadings that the attorney is filing in addition to the attorney's address.

CHAPTER V

Del.Co.O.C. Rule 5.2A. Whether Petition Required.

The application for the family exemption may be made by petition to the Court in any case and must be by petition in all cases not within Del.Co.O.C. Rules 5.2B and 5.2C.

Del.Co.O.C. Rule 5.2B. Voluntary Distribution.

When the personal representative at his own risk delivers or permits to be retained assets of the estate in satisfaction or partial satisfaction of the exemption he shall set forth the same as a credit in the account.

Del.Co.O.C. Rule 5.2C. Award in Adjudication.

When the spouse or an adult child claims the exemption, but payment or delivery thereof is not to be made until distribution of the estate is awarded by the court upon the personal representative's account, the award thereof will be included in the adjudication upon written request submitted at the audit. Such request may be made by the personal representative or the claimant and may be made by including it in the petition for adjudication.

Del.Co.O.C. Rule 5.2D. Procedure When Appraisal of Personal Property Necessary.

When personal property is claimed and an appraisal is necessary, the court will direct the appraisal to be made by special order in each case.

Del.Co.O.C. Rule 5.2E. Notice.

When the procedure is without petition, no notice other than that to the personal representative need be given of the claim for exemption.

Del.Co.O.C. Rule 5.2F. Procedure When Challenge to Family Exemption.

(1) *When Petition Filed.* When the procedure is by petition, challenges to the appraisal or allowance, or both, may be raised pursuant to the procedure outlined in Pa.O.C. Rules 3.6 and 3.7.

(2) *Challenges to Appraisal.* Challenges which relate only to the amount of the appraisal will be dismissed unless a definite and bona fide bid for the property is made, or facts warranting consideration by the court appear.

Del.Co.O.C. Rule 5.4A. Extension of Time.

A petition for an extension of time in which the surviving spouse may file an election to take against the will shall include the items required for a petition under Pa.O.C. Rule 5.4(a) to the extent applicable.

Del.Co.O.C. Rule 5.5A. Filing of Report.

A guardian ad litem or trustee ad litem shall file a report if so ordered by the court.

Del.Co.O.C. Rule 5.6A. Appearance at Presentation of Petition.

If the minor is under fourteen (14) years of age, the court may require the appearance of the minor in court to make the selection of a guardian of the estate or of the person.

Del.Co.O.C. Rule 5.6B. Certificate of Health.

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence a certificate of health signed by a licensed physician, attesting to the present condition of health of the following persons:

- (1) the minor;
- (2) the proposed guardian(s).

Del.Co.O.C. Rule 5.6C. Certification of Household Residents.

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence a certification attesting to the name, age, and relationship to the minor of each individual residing in the household with the proposed guardian(s) and the minor.

Del.Co.O.C. Rule 5.6D. Child Abuse and Police Clearances.

At a hearing on a petition to appoint a guardian of the person of a minor, the petitioner shall offer into evidence current (within one (1) year of the hearing) child abuse and police clearances on forms provided by the Department of Human Services and the State Police for the following persons:

- (1) the proposed guardian(s);
- (2) each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor.

Del.Co.O.C. Rule 5.6E. Federal Bureau of Investigation Clearance.

(1) Prior to a hearing on a petition to appoint a guardian of the person of a minor, the proposed guardian(s) and each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the proposed guardian(s) and each individual aged eighteen (18) years or older who is residing in the household with the proposed guardian(s) and the minor and obtaining a current record of any criminal arrests and convictions. (This Rule is designed to match the requirements to be met by Volunteers Having Contact with Children as outlined in 23 Pa.C.S. 6344.2).

(2) The verification(s) of identity and record(s) obtained from the Federal Bureau of Investigation for the person(s) stated above shall be offered into evidence at the hearing on the petition to appoint a guardian of the person of the minor.

Del.Co.O.C. Rule 5.6F. Allowances.

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

- (1) the manner of the guardian's appointment and qualifications and the dates thereof;
- (2) the age and residence of the minor, whether the minor's parents are living, the name of the person with whom the minor resides, the name and address of the minor's spouse and children, if any;
- (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 father, mother or other person charged with the duty of supporting the minor is living, the financial condition and income of such person and why such person is not discharging their duty to support the minor; and whether there is adequate provision for the support and education of the minor, and/or the minor's spouse and children;
- (5) the date and amount of any previous allowance by the court;
- (6) the financial requirements of the minor and his family unit, in detail, and the circumstances making such allowance necessary.

Del.Co.O.C. Rule 5.10A. Public Sale, Contents of Petition, Additional Requirements.

(1) *Personal Representative*—A petition by a personal representative to sell real property at public sale, under Section 3353 of the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

- (a) the name, residence and date of death of the decedent, whether the decedent died testate or intestate, and the date of the grant of letters;
- (b) that the personal representative is not otherwise authorized to sell by the Code; or 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;
- (c) whether an inventory and appraisalment has been filed, the total value of the property shown therein, and the value at which the real property to be sold was included therein;
- (d) if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;
- (e) the names and relationships of all interested parties, a brief description of their respective interests, whether any of them are deceased, minors, or incapacitated persons, and if so, the names and a reference to the record of the appointment of their fiduciaries;
- (f) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and
- (g) sufficient facts to enable the court to determine that the sale is desirable for the proper administration and distribution of the estate.

(2) *Trustee*—A petition by a trustee to sell real property at public sale, under Section 7792 of

the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

(a) how title was acquired to the property which is the subject of the petition, including the date and place of probate of the will, or recording of the deed;

(b) that the trustee is not otherwise authorized to sell by the Probate, Estates and Fiduciaries Code, or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale, stating the reason;

(c) a recital of the relevant provisions of the will or deed pertaining to the real property to be sold, and of the relevant history of the trust;

(d) the names and relationships of all interested parties, a brief description of their respective interests, and whether any of them are deceased, minors, or incapacitated persons, and if so, the names and a reference to the record of the appointment of their fiduciaries;

(e) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and

(f) sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

(3) *Guardian*—A petition by a guardian of a minor's estate to sell real property at public sale, under Section 5155(1) of the Probate, Estates and Fiduciaries Code shall also set forth in separate paragraphs:

(a) the age of the ward;

(b) the names of the ward's next-of-kin and the notice given them of the presentation of the petition. When there are no known next-of-kin who are sui juris to whom notice may be given, public notice in accordance with Del.Co.O.C. Rule 5.10C, must be given and proofs thereof must be attached to the petition as an exhibit;

(c) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(d) a recital of the provisions of the will or deed relating to the real property to be sold;

(e) the nature and extent of the interest of the ward, and of other persons with an interest, if any, in the real property;

(f) a full description of the real property to be sold, the improvements thereon, by whom and in what capacity it is occupied, its rental value and current tax assessment; and

(g) sufficient facts to enable the court to determine that the proposed sale will be in the best interest of the ward.

Del.Co.O.C. Rule 5.10B. Public Sale, Exhibits.

The following exhibits shall be attached to a petition by a personal representative, trustee or

guardian, to sell real property at public sale:

- (1) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;
- (3) consent by any mortgagee whose lien would otherwise not be discharged by the sale; and
- (4) an affidavit as to value by one real estate appraiser.

Del.Co.O.C. Rule 5.10C. Notice.

After the allowance of a petition for public sale of real property, notice of the public sale shall be given:

- (1) by advertisement once a week for three (3) consecutive weeks in the *Delaware County Legal Journal* and in one other newspaper of general circulation in Delaware County in the vicinity of the subject property; and by posting notice on the premises and three (3) additional notices in the immediate vicinity of the premises to be sold; and
- (2) by personal notice or certified mail to all interested parties of the time and place of the proposed sale at least twenty (20) days prior thereto; or
- (3) by such other notice as the Court may by special order direct.

Del.Co.O.C. Rule 5.10D. Security.

On the return day of the sale, the Court in the decree approving or confirming the public sale, will fix the amount of bond or additional security which the personal representative, trustee, or guardian shall be required to enter, or will be excused from entering additional security.

Del.Co.O.C. Rule 5.11A. Exhibits.

The following exhibits shall be attached to a petition by a fiduciary to sell real estate at private sale:

- (1) a copy of the will, deed, or decree by which the fiduciary was appointed;
- (2) any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join;
- (3) consent by any mortgagee whose lien would otherwise not be discharged by the sale, or if not attached, the reason therefore;
- (4) a copy of the agreement of sale.

Del.Co.O.C. Rule 5.11B. Procedure on Day Fixed for Approval.

- (1) *Private Sale.* Whenever prior to or on the day fixed for approval of a private sale an

additional bona fide offer(s) is received by the petitioner, the additional bona fide offer(s) and the petitioner's recommendation as to which offer for sale should be approved shall be submitted to the Court for consideration.

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

Del.Co.O.C. Rule 5.11C. Security.

The Court, in the decree approving or confirming the private sale, will fix the amount of bond or additional security which the fiduciary shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

Del.Co.O.C. Rule 5.12A. Additional Requirements.

(1) *Exhibits*. There shall be attached to a petition to mortgage or lease property, where applicable:

(a) a copy of the will, deed or decree by which the fiduciary was appointed;

(b) consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names and a copy of the notice which has been given to those parties who do not consent;

(c) a written statement by the proposed mortgagee indicating a commitment to grant the mortgage loan; and

(d) an appraisal by a real estate appraiser of the real property on which the proposed mortgage is to be secured.

(2) *Security*. The amount of the bond or initial security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the proposed mortgage.

CHAPTER VII

Del.Co.O.C. Rule 7.1A. Pretrial Conference.

(1) In any action, the Court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

(a) the simplification of issues;

(b) the necessity or desirability of pleadings and/or amendments thereto;

(c) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

(d) limitations on the number of expert witnesses;

(e) the advisability of a preliminary referral of issues to a master for findings to be used as evidence when the trial is to be by jury; and

(f) such other matters as may aid in the disposition of the action.

(2) The Court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order, when entered, shall control the subsequent course of the action unless modified at the trial to prevent manifest injustice.

Del.Co.O.C. Rule 7.1B. Practice as to Depositions, Discovery, Production of Documents and Perpetuation of Testimony.

(1) Leave to take depositions, or to perpetuate testimony, or to obtain discovery or the production of documents, may be granted only on petition upon cause shown, except upon agreement of parties and counsel, or except when such depositions, perpetuation of testimony or other discovery tools are required by statute or rule (e.g., in a guardianship proceeding).

(2) Petitions filed pursuant to this Del.Co.O.C. Rule 7.1B shall include a description of all efforts made to resolve discovery issues informally. Petitions shall also state the identity of the persons who are to be deposed, the testimony that is to be perpetuated, the documents that are to be produced, and a description of any other discovery requested. The petition shall also state the reasons why the aforementioned discovery is necessary and relevant to the litigation.

Del.Co.O.C. Rule 7.2A. Procedure for Motions for Judgment on the Pleadings.

(1) Motion for Judgment on the Pleadings may be accompanied by a memorandum of law in support thereof.

(2) Service shall be made in conformity with Pa.O.C. Rule 4.3.

(3) All such motions shall be accompanied by a notice, plainly appearing on the face thereof, of the date the motion was filed with the Clerk and advising that a reply memorandum of law may be filed within twenty (20) days from that date. The moving party shall also file with this motion a certification of service in conformity with Pa.R.C.P. 405(b). This certification shall state that the notice required by this Del.Co.O.C. Rule 7.2A has been given.

(4) Upon receiving the record papers, the Clerk shall then refer the matter to the appropriate judge. All requests for an extension of the prescribed time in which to answer such motions must be approved by the Court. Such approval shall be sought by a letter addressed to the Clerk. No agreement entered into solely by the parties will be honored by the Court.

(5) If no memoranda are filed with regard to this motion, the Court may dispose of the matter without such memoranda.

(6) If any matter is settled or withdrawn prior to disposition, the Clerk shall be promptly advised, and the moving party shall file an appropriate praecipe with the Clerk.

(7) The Court, in its discretion, may grant additional time in which to file a reply memorandum, request additional memoranda, or call for oral argument, or advance the time for filing.

Del.Co.O.C. Rule 7.3A. Procedure for Motions for Summary Judgment.

(1) Motion for Summary Judgment may be accompanied by a memorandum of law in support thereof.

(2) Service shall be made in conformity with Pa.O.C. Rule 4.3.

(3) All such motions shall be accompanied by a notice, plainly appearing on the face thereof, of the date the motion was filed with the Clerk and advising that a reply memorandum of law may be filed within thirty (30) days from that date. The moving party shall also file with this motion a certification of service in conformity with Pa.R.C.P. 405(b). This certification shall state that the notice required by this Del.Co.O.C. Rule 7.3A has been given.

(4) Upon receiving the record papers, the Clerk shall then refer the matter to the appropriate Judge. All requests for an extension of the prescribed time in which to answer such motions must be approved by the Court. Such approval shall be sought by a letter addressed to the Clerk. No agreement entered into solely by the parties will be honored by the Court.

(5) If no memoranda are filed with regard to this motion, the Court may dispose of the matter without such memoranda.

(6) If any matter is settled or withdrawn prior to disposition, the Clerk shall be promptly advised, and the moving party shall file an appropriate praecipe with the Clerk.

(7) The Court in its discretion may grant additional time in which to file a reply memorandum, request additional memoranda, or call for oral argument, or advance the time for filing.

CHAPTER IX

Del.Co.O.C. Rule 9.1A. Local Rule as to Notice.

Auditors and masters shall give reasonable notice of hearings to be held by them to all interested parties or to their attorneys of record in the manner provided in Pa.O.C. Rule 4.3.

Del.Co.O.C. Rule 9.6A. Notice and Objections.

An auditor or master shall give notice of the filing of the auditor's or master's report to all parties of record. Any interested party shall have the right to file objections to such report within ten (10) days of the date of such report or within such other time period directed by the auditor or master. If any objection is filed, the matter shall be set for argument at the time and place directed by the auditor or master, and with such notice to parties in interest or their counsel of record as the auditor or master directs.

Del.Co.O.C. Rule 9.7A. Decree.

If no objection is filed within the period expressed in Del.Co.O.C. Rule 9.6A, the Court may enter a decree confirming the auditor's report or adopting the master's report.

CHAPTER X

Del.Co.O.C. Rule 10.2A. Petition Practice.

(1) All Pleadings, Petitions, Citations, and Responsive Pleadings, as well as Preliminary and Final Decrees, shall be captioned: "In the Office of the Register of Wills of Delaware County, PA."

(2) Delaware County Local Rules established for PA Orphans' Court Rule 3.4 shall apply for practice before the Register of Wills.

(3) All Preliminary/Final Decrees and Citations that are filed with a pleading shall contain the wording, "By the Register" at the bottom of the Decree/Citation for the Register of Wills' signature.

(4) The procedure for rules to show cause shall be as provided in Pa.R.C.P. 206.4, et seq., as well as Del.Co.O.C. Rules 10.2A(1) and 10.2A(3).

(5) Del.Co.O.C. Rules 3.5A, 3.5B, and 3.12A shall apply to practice before the Register of Wills.

(6) Counsel who has entered an appearance before the Register of Wills as provided in Pa.O.C. Rule 1.7(a) shall not be permitted to withdraw without filing a petition to withdraw and obtaining the Register's permission, unless co-counsel, if any, will continue representing the party or there is a simultaneous entry of appearance by other counsel that will not delay the proceedings.

CHAPTER XIV

Del.Co.O.C. Rule 14.2A. Format and Rules for Guardianship Filings.

(1) The practice and procedure for guardianship matters follows that set forth in the Pa.O.C. Rules, with additional elements to reflect the purpose and practice of 20 Pa.C.S. Chapter 55, as generally described in these Local Rules for Chapter XIV of the Pa.O.C. Rules.

(2) The general format for petition practice and pleading for guardianship matters shall be as outlined in Chapter III of the Pa.O.C. Rules and related Del.Co.O.C. Rules, with modifications necessary to fulfill the statutory purposes of 20 Pa.C.S. Chapter 55, including, without limitation thereto:

(a) Pa.O.C. Rule 3.3 shall be followed as applicable;

(b) the applicable petition content described in Pa.O.C. Rule 3.4(a) shall be supplemented by the required petition content described in 20 Pa.C.S. § 5511;

- (c) consent of the proposed guardian, if any, shall be attached to the petition;
 - (d) service of the citation is by personal service as set forth in 20 Pa.C.S.A. § 5511; the requirement for additional service of a citation by first class mail, Del.Co.O.C. Rule 3.5A(2), does not apply to this type of service;
 - (e) the time period for rescheduled proceedings in Pa.O.C. Rules 3.5(a)(5) may be modified by the court as appropriate to the circumstances;
 - (f) the notice to plead described in Pa.O.C. Rule 3.5(b) shall be modified to reflect the guardianship proceeding and the notice shall include copies of the Citation with Notice and the Preliminary Decree with hearing date, and a description of the proceedings; and
 - (g) objections and responsive pleadings may be presented within twenty (20) days from the date of notice and prior to the scheduled hearing.
- (3) Notice to U.S. Department of Veterans Affairs. Consult 20 Pa.C.S. § 8411 regarding notice to the United States Department of Veterans Affairs, or its successor, upon filing of a petition for guardianship where benefits of compensation or insurance or other gratuity is payable to or for the alleged incapacitated person by that agency.

Del.Co.O.C. Rule 14.2B. Testamentary Writings.

All testamentary writings of the incapacitated person found by the guardian or in the possession of any other person shall at the time of the filing of the inventory be submitted by the guardian or such other person to the Court for its inspection, together with a photographic type copy to be retained by the Judge for his private file.

Committee Comment: Neither the will nor a copy thereof nor any description of its provisions should be permitted to become part of a file available for public inspection. See *Widener Estate*, 437 Pa. 294 (1970).

Del.Co.O.C. Rule 14.2C. Allowances from Incapacitated Persons' Estates.

- (1) *Petitions.* Petitions for allowances from an incapacitated person's estate or for the payment of counsel fees shall set forth:
- (a) the name of the guardian, 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;
 - (b) a summary of the inventory, the date it was filed, and the nature and present value of the estate;
 - (c) the address and the occupation, if any, of the incapacitated person;
 - (d) the names and addresses of the incapacitated person's dependents, if any;
 - (e) a statement of all claims of the incapacitated person's creditors known to petitioner; and
 - (f) a statement of the requested distribution and the reasons therefor, and a statement of all

previous distributions allowed by the court.

(2) *Notice to U.S. Department of Veterans Affairs.* If any portion of the incapacitated person's estate is received from the United States Department of Veterans Affairs or its successor, notice of the request for allowance shall be given to that agency.

Del.Co.O.C. Rule 14.2D. Certification.

(1) In any petition filed pursuant to 20 Pa.C.S. § 5511, counsel for petitioner shall file with the Clerk at least seven (7) days prior to the hearing a Certification that provides the following information to the best of counsel's knowledge, information and belief:

- (a) whether counsel has been retained by or on behalf of the alleged incapacitated person;
- (b) whether the issue of capacity is or is not contested;
- (c) whether the testimony on the issue of capacity shall be presented in one or more of the following manners:
 - (i) written interrogatory;
 - (ii) videotape deposition;
 - (iii) live testimony in court;
- (d) whether the issue relating to the choice of guardian is contested; and
- (e) whether the alleged incapacitated person will or will not be present at the hearing pursuant to 20 Pa.C.S. § 5511(a)(1) and (2).

(2) Information regarding the advisability of appointment of a guardian or attorney ad litem for the alleged incapacitated person may be provided to the Court for action by the Court with this filing or at another time as appropriate under the circumstances.

(3) Forms for this Certification are available online as described in Del.Co.O.C. Rule 14.5A(1).

Note: Counsel is advised to carefully review the requirements of 20 Pa.C.S. § 5511 in completing the Certification required.

Del.Co.O.C. Rule 14.2E. Testimony.

(1) Testimony of a person qualified to evaluate relevant incapacities of the alleged incapacitated person is required for the hearing on incapacity (20 Pa.C.S. § 5518).

(a) In contested matters, medical or psychological testimony may be provided by written interrogatory, videotape deposition, or live testimony in court, as agreed to by the parties, with adequate notice provided. No petition to the Court is required with agreement of the parties.

(b) In uncontested matters, the medical or psychological testimony may be provided via

verified written interrogatories. No petition to the Court is required. Forms of such written interrogatories approved by the court are available at the Office of the Clerk of the Orphans' Court or online as described in Del.Co.O.C. Rule 14.5A(1).

Del.Co.O.C. Rule 14.3A. Accounts and Distribution.

The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets comprising the estate, shall conform with the practice and procedure governing accounts in Chapter II of the Pa.O.C. Rules and related Del.Co.O.C. Rules.

Del.Co.O.C. Rule 14.5A. Forms.

(1) Please refer to forms on the website for the Delaware County Government (<http://www.co.delaware.pa.us/documentcenter.html>), Orphans' Court forms. Mandatory state-prescribed Orphans' Court forms listed in Pa.O.C. Rule 14.5 must be used verbatim. When using other local forms, filings may be made in substantial compliance with these forms.

(2) The mandatory state form required to be filed under the Pennsylvania Uniform Firearms Act (18 Pa.C.S. § 6105(c)(4)) and the Pennsylvania Mental Health Procedures Act (50 P.S. § 7109(d)) within seven (7) days of adjudication of incapacity, is available from the Clerk of the Orphans' Court or online as described in (1) immediately above.

[Pa.B. Doc. No. 16-1299. Filed for public inspection July 29, 2016, 9:00 a.m.]

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THE COURTS

MONTGOMERY COUNTY

Adoption of Orphans' Court Rules Chapters 1 through 9

[46 Pa.B. 4833]

[Saturday, August 6, 2016]

Administrative Order

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

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

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

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

By the Court

WILLIAM J. FURBER, Jr.,
President Judge

LOIS E. MURPHY,
Administrative Judge

EXHIBIT A

MONTGOMERY COUNTY LOCAL ORPHANS' COURT RULES

CHAPTER I. PRELIMINARY RULES

Local Rule 1.1A.

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

Local Rule 1.7A. Officers Not Eligible To Practice.

The following officers shall not practice as an attorney before this court: the clerk of this court; any law clerk of this court;

the Register of Wills and the sheriff of this County; the official stenographer; and their assistants, deputies and clerks.

Local Rule 1.8A. Cover Sheet.

Every legal paper filed (unless filed electronically) shall be accompanied by a completed cover sheet, in the form available from the Clerk of the Orphans' Court of Montgomery County and available on the Montgomery County Website at the following link: <http://www.montcopa.org/DocumentCenter/View/418>. The cover sheet must be typed or printed and must include the address and signature of the attorney for the filing party. If the party is not represented by any attorney, the party must sign the cover sheet and include his or her address. Where an attorney or party has not previously entered his or her appearance with respect to the matter, the cover sheet for a pleading shall be deemed to be an entry of appearance by the attorney or party who signs the cover sheet.

Local Rule 1.8(c). Checklists.

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

See Proposed Checklists Below

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • DECEDENT'S ESTATE		
ESTATE OF <i>DECEASED</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O.C. NUMBER	ADDRESS	
INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O.C. CLERK
	1a) ACCOUNT COVERSHEET and SUMMARY PAGE [O.C. Rule 2.1]	
	1b) ACCOUNT SIGNED by ALL ACCOUNTANTS/VERIFIED by at LEAST ONE ACCOUNTANT [O.C. Local Rule 2.4B.]	
	2a) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION filed [O.C. Rule 2.4]	
	2b) PETITION for ADJUDICATION/ STATEMENT of PROPOSED DISTRIBUTION SIGNED by EACH ACCOUNTANT [O.C. Rule 2.4 and Local Rule 2.4B]	
	2c) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION VERIFIED by at LEAST ONE ACCOUNTANT [O.C. Rule 2.4 and Local Rule 2.4B]	
	3a) IF WILL, TYPED COPY of WILL & CODICILS	
	3b) IF WILL, CERTIFIED CORRECT	
	4) ORIGINAL LETTERS TESTAMENTARY or LETTERS OF ADMINISTRATION	
	5) PROOF of ADVERTISEMENT of LETTERS [20 Pa. C.S. § 745] (unless filed by order of Court)	
	6a) TYPED COPY of INVENTORY	
	6b) CERTIFIED CORRECT	
	7a) STATEMENT of METHOD of NOTICE	
	7b) NOTICE OF CHARITABLE GIFT TO ATTORNEY GENERAL [O.C. Rule 4.4]	
	8) PETITION to APPOINT/REQUEST to WAIVE GUARDIAN/TRUSTEE AD LITEM [O.C. Rule 2.4.]	
	9) INHERITANCE TAX RECEIPTS	
	10) AGREEMENT of COMPROMISE and SETTLEMENT	
	11) AGREEMENT REGARDING ACCOUNTANT'S COMPENSATION	
	12a) CERTIFICATE of APPOINTMENT OF FOREIGN FIDUCIARY	
	12b) AFFIDAVIT by FOREIGN FIDUCIARY	
	13) CERTIFICATION REGARDING PRIOR FILED ORIGINALS	
	14) INCOME ACCOUNTING WAIVERS	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY	DATE

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

COURT OF COMMON PLEAS OF MONTGOMERY COUNTY • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • TRUST (TESTAMENTARY/INTER VIVOS)		
ESTATE OF <i>DECEASED/SETTLOR</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O.C. NUMBER	ADDRESS	
INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O.C. CLERK
	1a) ACCOUNT COVERSHEET and SUMMARY PAGE	
	1b) ACCOUNT SIGNED by ALL ACCOUNTANTS/VERIFIED by at LEAST ONE ACCOUNTANT	
	2a) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION filed	
	2b) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION SIGNED by EACH ACCOUNTANT	
	2c) PETITION for ADJUDICATION/STATEMENT of PROPOSED DISTRIBUTION VERIFIED by at LEAST ONE ACCOUNTANT	
	3a) TYPED COPY of TRUST INSTRUMENT (DEED OR WILL)	
	3b) CERTIFIED CORRECT	
	4a) ORIGINAL TRUST INSTRUMENT/ORIGINAL LETTERS TESTAMENTARY	
	4b) CERTIFIED CORRECT	
	5a) STATEMENT of METHOD of NOTICE	
	5b) NOTICE OF CHARITABLE GIFT TO ATTORNEY GENERAL	
	6 PETITION to APPOINT/REQUEST to WAIVE GUARDIAN/TRUSTEE AD LITEM	
	7 INHERITANCE TAX RECEIPTS	
	8) AGREEMENT of COMPROMISE and SETTLEMENT	
	9) AGREEMENT REGARDING ACCOUNTANT'S COMPENSATION	
	10a) CERTIFICATE of APPOINTMENT OF FOREIGN FIDUCIARY	
	10b) AFFIDAVIT by FOREIGN FIDUCIARY	
	11) CERTIFICATION REGARDING PRIOR FILED ORIGINALS	
	12) INCOME ACCOUNTING WAIVERS	
	13)	
	14)	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY	DATE

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

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

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

MONTGOMERY COUNTY ORPHANS' COURT CHECKLIST - SCHEDULE OF DISTRIBUTION

Decedent's/Settlor's/Principal's/Incapacitated Person's/Minor's Name:

Case Number:

Audit Date:

Attorney:

Attorney Address:

Attorney ID Number:

Attorney Phone Number:

*****DOCUMENTS MUST BE ASSEMBLED ACCORDING TO THE ORDER ON THIS CHECKLIST*****

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

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6

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Local Rule 2.4A. Audit List—When Called.

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

Local Rule 2.4B. Signatures.

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

Local Rule 2.4C. Additional Receipts and Disbursements.

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

Local Rule 2.5A. Notice following continuance.

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

Local Rule 2.6A. Index of Proceedings.

The clerk shall assign to each new matter a file number. The file number and the name of the matter shall be included in the caption of all papers filed in the clerk's office.

Local Rule 2.6B. Holidays.

Whenever a session of court, a return day, or any time fixed for performing any judicial or clerical duty, falls on a holiday, Saturday, or a Sunday, the next day not a holiday, a Saturday, or a Sunday shall be the day for the session of court, the return day, or the time for performance of the judicial or clerical act, unless otherwise provided by these rules.

Local Rule 2.6C. For a Particular Audit.

Accounts to appear on a particular audit list must be filed not later than the fifth Wednesday preceding the date when that audit list will be called, except when that Wednesday falls on a holiday, in which event accounts must be filed not later than the next preceding non-holiday.

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

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

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

Local Rule 2.9A. Schedules of Distribution.

(a) *Filing.* The court, when it appears advisable or when requested, will direct the attorney for accountant to prepare and file a schedule of distribution. Schedules shall be certified by the attorney for accountant to be correct and in conformity with the adjudication, and shall be filed with the clerk in duplicate. When a schedule is approved in writing by interested parties the attorney for accountant shall also certify whether or not such parties constitute all those affected thereby.

(b) *Confirmation.* If no objections are filed by the twentieth day after the schedule was filed, it will be confirmed, as of course. Schedules approved in writing by all interested parties affected thereby will be confirmed, as of course, on the day filed. Thereupon the accountant shall have authority to make necessary assignments and transfers of any securities awarded in kind, and the schedule will be attached to and become part of the adjudication.

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

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

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

- 1) items of additional receipts or disbursements not included in the adjudication; or
- 2) distribution of assets which were awarded in kind in the adjudication, but which were neither specifically bequeathed to the distributee nor elected by him to be taken in kind or which were revalued.
- (b) *Time of Notice.* Such notice shall be given no later than the day of the filing of the schedule, by letter addressed to the last known address of the party in interest or his attorney.
- (c) *Return of Notice.* The attorney for accountant shall certify on the schedule that due notice of the filing thereof was given as required by this rule and shall attach a copy of the notice and a list of those to whom such notice was sent.

Local Rule 2.9C. Distribution of Real Estate.

- (a) *When No Partition or Allotment Required or When Distributees Agree to Schedule.* No schedules of distribution shall include separate awards of real estate to the parties entitled thereto, whether individually, or, where the circumstances require, in undivided interests. The real estate so awarded shall be described in the same detail and with the same particularity as is commonly required to be included in deeds and may recite how title was acquired. Approval of schedules of distribution shall be in the nature of confirmation of title in the respective distributees and the clerk is authorized to certify to integral excerpts or extracts from such schedules, so approved, for purposes of recording such devolutions of real estate in the office of the recorder of deeds.
- (b) *Partition or Allotment of Real Estate Requested by Accountant or a Party in Interest.* Whenever partition or allotment of real estate is requested by the accountant or a party in interest, the request shall be made at the audit and the auditing judge shall make such order, including a direction to submit an information certificate, issued by an attorney or a responsible title insurance company, showing the current state of the title, if required, provisions for owelty, if any, the preparation of a schedule of distribution, notice to the parties and fixing the dates of further hearings, as may be necessary under the circumstances to protect all interested parties.
- (c) *Form of Clerk's Certificate.* The following form shall be prepared by the attorney for the accountant, and submitted to the clerk for execution on final confirmation of an adjudication awarding real estate:

CERTIFICATE OF AWARD OF REAL ESTATE

ESTATE OF _____

Late of the Borough of Norristown, Deceased

No. _____

Award of Real Estate to:

(1) _____ of _____

(2) _____ of _____ .

Commonwealth of Pennsylvania

ss:

County of Montgomery

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

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

Assistant Clerk of the
(SEAL) Orphans' Court Division

CHAPTER III. PETITION PRACTICE AND PLEADING

Local Rule 3.4A. Trust Inter Vivos.

The original, or a copy certified by counsel to be true and correct, of the trust instrument and any amendments thereto, shall be filed or e-filed with the clerk when the court is first required to exercise its jurisdiction over the inter vivos trust. The instrument shall be indexed and recorded by the clerk. Any revocation shall be likewise filed, indexed and recorded. The rules of court applicable to testamentary trusts shall apply to trusts inter vivos as far as appropriate.

Local Rule 3.4B. Sureties.

(a) *Individual Sureties.* Individuals proposed as sureties on bonds of fiduciaries shall take an affidavit on the printed form supplied by the clerk, setting forth the facts required thereby. Such affidavit shall be filed together with the bond when that is filed for approval, and shall be renewed annually thereafter as long as the bond shall remain in effect. A member of the Bar or any employee of this court shall not act as surety in any proceeding in this court, except by special leave of court.

(b) *Corporate Sureties.* Every surety company duly authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the clerk, and that no bond shall be executed by any surety company after May 1 of any year until such certificate issued after March 31 of the same year shall have been filed with the clerk.

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

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

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

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

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

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

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

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

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

[CAPTION]

PRELIMINARY DECREE

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

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

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

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

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

By the Court

Local Rule 3.9A. Disposition of Preliminary Objections.

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

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

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

Local Rule 4.7A. Electronic Filing of Legal Papers.

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

(b) *Electronic Filing of Legal Paper.*

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

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

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

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

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

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

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

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

1) *Website.* All legal papers to be filed electronically shall be filed through the Clerk of the Orphans' Court Electronic Filing

System which shall be accessible through the website of Montgomery County Courts, <https://www.courtsapp.montcopa.org/ROWEfiling> or at such other website as may be designated from time to time.

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

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

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

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

(e) *Intentionally omitted.*

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

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

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

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

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

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

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

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

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

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

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

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Local Rule 5.2A. Notice.

(a) *When No Petition.* When the procedure is without petition no notice other than that to the personal representative need

be given of the claim for exemption.

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

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

Local Rule 5.2B. Objections.

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

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

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

Local Rule 5.2C. Final Decree.

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

Local Rule 5.4A. Extension of Time.

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

Local Rule 5.6A. Appearance at Presentation of Petition.

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

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

In lieu of the entry of bond, the court in appropriate cases may authorize the guardian to deposit the funds of the minor in an interest bearing account or to purchase shares of a building and loan association or Federal savings and loan association which has an office located in Montgomery County, in accordance with the provisions of Probate, Estates and Fiduciaries Code § 5103, subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without order of court, and that the evidence of the deposit or investment, marked to indicate the restriction, shall be promptly exhibited to the clerk. If the minor is sixteen (16) years of age or over, or if the funds of the minor are \$10,000 or less, the requirement of a bond will be waived unless specially required by the Court. The Court may also waive the requirement of a bond in such other cases as the Court, for cause shown, finds that no bond is necessary.

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

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

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

When a petition is necessary for an allowance from a minor's estate, the petition shall set forth:

- (a) the manner of the guardian's appointment and qualification, and the dates thereof;
- (b) the name, age and residence of the minor;
- (c) the name of the person with whom the minor resides, the name and age(s) of that person's spouse and children and/or dependents, if any;
- (d) whether or not the minor's parents are living;
- (e) the value of the minor's estate, real and personal, and the net annual income;
- (f) the circumstances of the minor, whether employed or attending school; if the minor's parents, or any other person charged with the duty of supporting him or her, is living, the financial condition and income of such person and why he or she is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor;
- (g) the date and amount of any previous allowance by the court; and
- (h) the financial requirements of the minor and his or her family unit, in detail, and the circumstances making such allowance necessary.

Local Rule 5.8A. Discharge of Fiduciary—Exhibits.

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

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

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

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

- (a) When it is required that a personal representative, trustee or guardian petition the court to sell real property at public sale, the petition (in addition to requirements of Rule 5.10) shall also set forth in separate paragraphs:
 - 1) With respect to a decedent's estate, the name, residence and date of death of the decedent; whether the decedent died testate or intestate; and the date of the grant of letters;
 - 2) With respect to a minor's estate, the age of the minor;
 - 3) With respect to a minor's estate or an incapacitated person's estate, the nature and extent of the interest of the ward, and of other persons in the real property;
 - 4) With respect to property of an incapacitated person, the guardian shall include an averment whether the guardian knows or has reason to know of any objection of the ward to the sale of the real property, and shall describe the nature and circumstances of any such objection, whether stated before or after the adjudication of incapacity;
 - 5) how title to the real property was acquired, stating the date and place of probate of the will or recording of the deed;
 - 6) a recital of the relevant provisions of the will, trust or deed pertaining to the real property to be sold, and of the history of the trust;
 - 7) that the fiduciary is not otherwise authorized to sell the real estate by the Act; or is not authorized or is denied the power to do so by the will or trust, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;
 - 8) whether an inventory and appraisal has been filed; the total value of the property shown therein; and the value at which the real property to be sold was included therein;
 - 9) if the fiduciary entered bond, the name of the surety and the amount of such bond;
 - 10) the names and relationships of all interested parties, including the next of kin of any minor or incapacitated person, a brief description of their respective interests; whether any of them are minors, incapacitated persons or deceased, and if so, the

names of their fiduciaries, if any; and the notice given to each such party in interest of the filing of the petition;

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

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

Local Rule 5.10B. Public Sale. Exhibits.

The following exhibits shall be attached to a petition by a personal representative, trustee or guardian, to sell real property at public sale:

(a) a copy of the will, deed, or decree by which the fiduciary was appointed; and

(b) any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join; and

(c) consent by any mortgagee whose lien would otherwise not be discharged by the sale.

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

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

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

1) the information required by Local Rule 5.10A and the advertisement made;

2) the price obtained; and

3) the name and address of the purchaser and that he was highest bidder.

Local Rule 5.10D. Public Sale. Security.

On the return day of the sale, the court, in the decree approving, or confirming the sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

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

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

1) the date of death of the decedent;

2) the date of the petitioner's appointment;

3) the amount of the bond or bonds filed by him or her, and the date of such filing and the name or names of his surety;

4) the total valuation of the personal estate as shown in the inventory and appraisal, if any; and the total proceeds of any real estate sold previously;

5) a short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid; and

6) a prayer for an order fixing the amount of additional security or for an order excusing him from filing additional security, as the case may be.

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

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

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

- 1) a copy of the will, deed, or decree by which the fiduciary was appointed;
- 2) any consents or joinders of interested parties and the names and a copy of the notice which has been given to those parties who do not consent or join;
- 3) a copy of the agreement of sale or exchange or option agreement;
- 4) affidavits as to value as to the property to be optioned or exchanged or sold and, in the case of an exchange, of the property to be received, made by two real estate appraisers; and
- 5) with respect to a sale of real property of an incapacitated person, the guardian of estate of the incapacitated person shall include in the petition for approval of the sale an averment concerning whether the guardian knows or has reason to know of any objection of the incapacitated person to the sale of the real property, and shall describe the nature and circumstances of any such objection, whether stated before or after the adjudication of incapacity.

Local Rule 5.11B. Procedure.

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

- 1) No offer from any proposed purchaser other than the one named in the petition will be considered unless it is at least ten (10) percent higher and is payable in cash.
- 2) If one or more interested purchasers other than the proposed purchaser named in the petition do appear and state their willingness to offer at least ten (10) percent more, the Court will conduct an informal auction. The proposed purchaser named in the petition and all other interested purchasers shall have the opportunity to make offers at least ten (10) percent higher than the offer of the original proposed purchaser, until the highest price offered by any interested purchaser shall be determined.
- 3) The Court will then entertain the highest offer made by an interested purchaser and will enter an appropriate decree.

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

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

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

The court, in the decree approving or confirming the sale, exchange, or grant of option, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering bond or additional security.

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

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

- 1) the date of death of the decedent;
- 2) the date of the petitioner's appointment;

- 3) the amount of the bond or bonds filed and the date of such filing and the name or names of the surety;
- 4) the total valuation of the personal estate as shown in the inventory and appraisal, if any; and the total proceeds of any real estate sold previously;
- 5) a short description of the real property sold, the name of the purchaser and the amount of the consideration to be paid; and
- 6) a prayer for an order fixing the amount of additional security or for an order excusing the fiduciary from filing additional security, as the case may be.

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

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

(a) *Contents of Petition.* A petition to mortgage or lease real property by a personal representative, trustee or guardian, shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale; shall set forth the amount and terms of the proposed mortgage loan or terms of lease; and shall set forth sufficient facts to enable the court to determine whether the proposed mortgage or lease should be approved.

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

- 1) A copy of the will, deed or decree by which the fiduciary was appointed;
- 2) Any consents or joinders of interested parties, and the names and a copy of the notice which has been given to those parties who do not consent or join.

(c) *Security.* The amount of the bond or additional security required to be entered, or the waiver thereof, will be determined by the court in its decree approving the proposed mortgage or lease.

Local Rule 5.16. Settlement of Small Estates.

(a) *Form of Petitions.* Contents. A petition under Probate, Estates and Fiduciaries Code § 3102 for distribution of small estates shall set forth:

- 1) The name and address of the petitioner and his or her relationship to the decedent.
- 2) The name, date of death and domicile of decedent, whether he or she died testate or intestate, the dates of the probate of the will and of the grant of letters if any and whether the personal representative has been required to give bond, and in what amount.
- 3) The names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them has received or retained any property of the decedent by payment of wages under Probate, Estates and Fiduciaries Code § 3101, or otherwise, and whether any of them are minors, incapacitated persons or deceased with the names of their fiduciaries, if any.
- 4) The person or persons, if any, entitled to the family exemption and, if a claim therefor is made in this petition, any additional facts necessary to establish the prima facie right thereto, as required by Rule 5.2.
- 5) An inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit.
- 6) A list showing the nature, amount and preference of all unpaid claims against the estate and indicating which are admitted.
- 7) If any unpaid beneficiary, heir, or claimant has not joined in the petition, a statement that twenty days' notice of filing of the petition has been given in accordance with these rules.
- 8) A prayer for distribution of the personal property to those entitled, and in appropriate cases for the discharge of the personal representative.

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

- 1) The original of the decedent's will if it has not been probated, or a copy of the will if it has been probated.
 - 2) Joinders of unpaid beneficiaries, heirs and claimants insofar as they are obtainable.
 - 3) An itemized list of disbursements made prior to the filing of the petition, indicating the payee and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, item of distribution or the family exemption.
 - 4) Certificate of Register of Wills showing status of the inheritance tax.
- (c) *Appraisements.* No appraisal shall be required unless ordered by the Court.

Local Rule 5.17A. Petition to Convert to Unitrust.

(a) *Contents of Petition*

- 1) The name, address and interest of petitioner in the trust.
- 2) How and when the trust was created, attaching a copy of the trust document and any amendments thereto to the petition as an exhibit.
- 3) The facts establishing Montgomery County as a proper venue for the trust.
- 4) Statement of how the trustee received the funds (e.g. by gift, by award from a prior adjudication, etc.).
- 5) A description of the dispositive provisions of the trust.
- 6) The terms of the trust.
- 7) Names of all beneficiaries.
 - i. Beneficiaries who are currently eligible to receive income from the trust.
 - ii. Names of any successor beneficiaries or representatives of beneficiaries.
 - iii. The names of all beneficiaries entitled to distribution of principal in the absence of exercise of any powers of appointment.
 - iv. Petition shall identify any beneficiary who has been declared incapacitated, is believed not to be sui juris or is a minor, including the age of the minor, and including the names of any fiduciary representing a beneficiary

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

- 1) The current market value of the trust principal.
 - 2) The current annual fiduciary income accounting of the trust without regard to the power to adjust under Probate, Estates and Fiduciaries Code § 8104.
 - 3) The current percentage yield of the trust based on trust principal and trust income.
 - 4) The current percentage of the trust invested in fixed income investments and the current percentage of the trust invested in equities.
 - 5) The current percentage of trust assets not invested but producing income or unfixd in equities.
- (c) Facts supporting why the conversion will enable the trustee to better carry out the intent of the settlor or testator and the purpose of the trust.
- (d) Copies of all notices sent to beneficiaries shall be attached as an exhibit to the petition.
 - (e) Statement as to why there is a need for court approval of the requested conversion.
 - (f) Specific language relating to the relief being requested shall be included in both the petition and the order to be attached to the petition.

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

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

(a) The parties may agree to the scope and deadlines for discovery, and may agree to any or all of the following: responses to written interrogatories, document production, requests for admissions and depositions, including depositions to preserve testimony for trial, and may agree to the specific dates, times and places for depositions.

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

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

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

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

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

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

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

Local Rule 7.3A. Motion for Summary Judgment.

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

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

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

Local Rule 7.5A. Conference.

In any action the court, of its own motion or on motion of any party, may direct the attorneys for the parties to appear for a conference to consider:

(a) The simplification of the issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(d) The limitation of the number of expert witnesses; and

(e) Such other matters as may aid in the disposition of the action.

Local Rule 8.2A. Motion For Reconsideration.

(a) Any motion for reconsideration filed pursuant to Pennsylvania Supreme Court Orphans' Court Rule 8.2 must be filed within twenty (20) days after the date of the filing of any order, decree or adjudication as to which reconsideration is sought.

(b) The motion for reconsideration must state how the grounds for reconsideration were previously asserted in the

proceedings. Grounds not specified are deemed waived unless leave is granted upon cause shown to specify additional grounds.

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

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

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

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

1) by service upon the attorney appearing of record for a party;

2) if there is no such attorney, by U.S. first-class mail, if the party's residence is known; or

3) if a party's residence is not known, by publication once a week during two successive calendar weeks in the *Montgomery County Law Reporter*; or by such method of alternative service as is authorized by the court.

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

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

1) by service upon the attorney appearing of record for a party; or

2) if there is no such attorney, by U.S. first-class mail, if the party's residence is known.

3) if a party's residence is not known, by publication once a week during two successive calendar weeks in the *Montgomery County Law Reporter*; or by such method of alternative service as is authorized by the court.

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

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

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

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

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

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FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

President Judge General Court Regulation No. 2016-2

In re: Adoption of Philadelphia County Local Orphans' Court Rules pursuant to Pa. O.C. Rule 1.5 (e) and Pa.R.J.A. 103

ORDER

AND NOW, this 20th day of July, 2016, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 19, 2016 to adopt proposed Philadelphia County Local Orphans' Court Rules ("Local Rules") subject to review and modifications upon submission to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee ("Rules Committee") as required by Pa. O.C. Rule 1.5(e), now contained in Pa.R.J.A. 103(d), the proposed Local Rules having been submitted to the Rules Committee for review and, upon request by the Rules Committee, the Local Rules having been modified as requested by the Rules Committee, and the Rules Committee having now provided written confirmation that the Local Rules may be promulgated and published in the *Pennsylvania Bulletin*,

Now, therefore, IT IS HEREBY ORDERED and DECREED that the attached Philadelphia County Local Orphans' Court Rules are adopted and shall become effective September 1, 2016.

As required by Pa.R.J.A. 103(d), this General Court Regulation and the Local Rules being adopted has been submitted to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee for review, and written notification has been received from the Rules Committee certifying that the Local Rules are not inconsistent with any general rule of the Supreme Court. This General Court Regulation shall be filed with the Office of Judicial Records (formerly the *Prothonotary*) as well as with the Clerk of the Orphans' Court, in a docket maintained for Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this General Court Regulation and Local Rules, as well as one copy of the General Court Regulation and Local Rules on a computer diskette, shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this General Court Regulation and Local Rules shall be filed with the Administrative Office of Pennsylvania Courts, published on the website of the First Judicial District at <http://courts.phila.gov>, and incorporated in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and Local Rules shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

BY THE COURT:

/s/ *Sheila Woods-Skipper*

HONORABLE SHEILA WOODS-SKIPPER
President Judge, Court of Common Pleas
Philadelphia County

PHILADELPHIA COUNTY ORPHANS' COURT RULES

Chapter I. Preliminary Rules

Rule 1.1A. Short Title and Citation.

Rule 1.3A. Definitions.

Rule 1.8A. Forms.

Chapter II. Accounts, Objections and Distributions

Rule 2.4A. Additional Receipts and Disbursements.

Rule 2.4B. Papers to be Filed with Accounts.

Rule 2.5A. Advertisement of Accounts. Posting.

Rule 2.6A. Filing for a Particular Audit.

Rule 2.6B. When Audit Lists Called. Postponed or Adjourned.

Rule 2.7A. Appearances at Audit.

Rule 2.9A. Schedules of Distribution.

Rule 2.10A. Content of Report for Foreign Heirs and Unknown Distributees.

Rule 2.11A. Charitable Trusts. Visitorial Powers.

Rule 2.11B. Termination of Trust.

Rule 2.11C. Compensation.

Chapter III. Petition Practice and Pleading

Rule 3.4A. Exhibits, Consents, Approvals, Checklists and Attachments.

Chapter IV. Format and Service of Legal Paper by Parties and Court; Electronic Filing

Rule 4.2A. Method. Absentee Individuals and Presumed Decedents.

Rule 4.7A. Electronic Filing and Service of Legal Papers.

Chapter V. Rules Governing Specific Types of Petitions

- Rule 5.2A. Family Exemption, Additional Requirements.**
- Rule 5.2B. Allowance for Family Exemption.**
- Rule 5.2C. Appraisal. Notice. Confirmation.**
- Rule 5.3A. Allowance to Surviving Spouse of Intestate. Additional Requirements.**
- Rule 5.3B. Appraisal. Notice. Confirmation.**
- Rule 5.4A. Petition for Citation to Restrain the Payment or Transfer of Property under 20 Pa.C.S. §2211(d).**
- Rule 5.4B. Petition to Extend the Time for a Surviving Spouse to File for an Elective Share in Accordance with 20 Pa.C.S. §2210(b).**
- Rule 5.5A. Appointment of Guardian *ad Litem* or Trustee *ad Litem*. Report Requirements.**
- Rule 5.6A. Minor's Estate. Restricted Account.**
- Rule 5.6B. Minor's Estate. When Guardian Unnecessary.**
- Rule 5.6C. Minor's Estate. Allowances.**
- Rule 5.10A. Petitions for Leave to Sell Real Property at Public Sale under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**
- Rule 5.11A. Petitions for Leave to Sell Real Property at Private Sale under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**
- Rule 5.12A. Petition for Leave to Mortgage or Lease Real Property under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).**
- Rule 5.13A. Public Sale of Inalienable Property under 20 Pa.C.S. § 8301 et seq.**
- Rule 5.13B. Private Sale of Inalienable Property under 20 Pa.C.S. § 8301 et seq.**
- Rule 5.13C. Mortgage of Inalienable Property under 20 Pa.C.S. § 8301.**
- Rule 5.13D. Real Estate or Fiduciaries in Other Counties of Inalienable Property 20 Pa.C.S. § 8301.**
- Rule 5.16A. Settlement of Small Estates under 20 Pa.C.S. § 3102.**

- Rule 5.16B. Procedure for Determination of Title to Decedent's Interest in Real Estate under 20 Pa.C.S. § 3546.**
- Rule 5.16C. Petitions to Fix or Waive Additional Security under 20 Pa.C.S. §§ 3351 and 7780.6(a).**
- Rule 5.16D. Approval of Corporate Fiduciaries. Security.**
- Rule 5.16E. Petition to Enforce the Rights of an Electing Spouse under 20 Pa.C.S. § 2201 et seq.**
- Rule 5.16F. Fiduciaries in Military Service. Appointment of Substituted Fiduciary Pro Tem under 20 Pa.C.S. § 4301.**

Chapter VII. Rules Relating to Pre-Hearing and Hearing Procedure

- Rule 7.1A. Philadelphia Orphans' Court Division Practice.**
- Rule 7.1B. Pre-Trial Conference.**
- Rule 7.2A. Motion for Judgment on the Pleadings.**
- Rule 7.3A. Motion for Summary Judgment.**

Chapter IX. Auditors and Masters

- Rule 9.1A. Appointment.**
- Rule 9.1B. Manner of Notice and to Whom Given.**
- Rule 9.2A. Where Filed.**
- Rule 9.6A. Time and Contents of Notice.**
- Rule 9.7A. Confirmation of Report. Objections.**
- Rule 9.8A. Security of Expenses and Fees.**

Chapter X. Register of Wills

- Rule 10.1A. Register of Wills – Forms Required to be Used.**

Chapter XIV. Guardianships of Incapacitated Persons

- Rule 14.2A. Petitions under 20 Pa.C.S. § 5501 et seq.**
- Rule 14.2B. Practice and Procedure. In General.**

Rule 14.2C. Practice and Procedure. Small Estate of Incapacitated Persons.

Rule 14.2D. Practice and Procedure. Special Petitions.

Rule 14.2E. Practice and Procedure. Modification of Existing Orders and Adjudication of Capacity.

Appendix.

PHILADELPHIA ORPHANS' COURT DIVISION RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.1A. Short Title and Citation.

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

Rule 1.3A. Definitions.

"Legal Periodical" - *The Legal Intelligencer* shall be the legal periodical for the publication of legal notices in Philadelphia County, whenever publication in a legal periodical is required by Act of Assembly, or by Rule or order of Court.

Rule 1.8A. Forms.

Local Orphans' Court forms are set forth in the Appendix.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.4A. Additional Receipts and Disbursements.

Receipts and disbursements subsequent to the date to which the account was stated and to be included in the adjudication shall be set forth in the Petition for Adjudication/Statement of Proposed Distribution and in the audit notice.

Probate Section Comment: Generally, appearance slips should be used to inform the Court of minor errors or discrepancies in the account, or additional filing fees and other nominal expenses incurred by the accountant since the closing date of the account that are to be included in the adjudication.

Rule 2.4B. Papers to Be Filed With Accounts.

- (1) All Accounts. Counsel shall electronically file the following papers contemporaneously with the account:
- (a) account filing checklist;
 - (b) a Petition for Adjudication/Statement of Proposed Distribution;
 - (c) copies of all agreements with respect to settlements and compromises;
 - (d) copies of agreements, if any, with respect to the accountant's compensation, if credit therefor is taken in the account or requested at the audit;
 - (e) a waiver of an income accounting by those entitled to the income, if the account does not contain a complete income accounting and such a waiver is not attached to the account;
 - (f) the official receipt for any inheritance tax paid during the period of the accounting; and
 - (g) a statement of the method and date of giving notice to all interested parties of the filing of the account and the Petition for Adjudication/Statement of Proposed Distribution and of the time of the audit, or alternatively, an averment that such notice shall be given and a certification thereof shall be submitted at the audit as hereinafter set forth. In those instances where notice has been given, a copy of said notice, as well as the names and addresses of the parties notified, shall be appended to the Petition for Adjudication/Statement of Proposed Distribution. In those instances where notice is yet to be given, a copy of said notice, as well as the names and addresses of the parties notified, shall be submitted to the Court at audit, together with a statement executed by the accountant or the accountant's counsel certifying that notice has been given.

(2) Accounts of Personal Representatives. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a personal representative, counsel shall electronically file:

- (a) a copy of the original letters, together with proof of advertisement thereof; and
- (b) a copy of the inventory and of the will and codicils, certified by the accountant or counsel to be true and correct.

(3) Accounts of Trustees. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee, counsel shall electronically file a copy of the trust instrument, certified by the accountant or counsel to be true and correct.

(4) Accounts of Trustees of Special Needs Trusts. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee of a special needs trust, counsel shall electronically file:

- (a) a copy of the trust instrument, certified by the accountant or counsel to be true and correct;
- (b) letter of No Objection from counsel for the Pennsylvania Department of Human Services; and
- (c) statement of method and date of notice to Pennsylvania Department of Human Services Special Needs Trust Depository and Social Security Administration.

(5) Accounts of Guardians of the Estates of Minors. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of a minor, counsel shall electronically file:

- (a) a copy of the will, deed or decree by which the guardian was appointed;
- (b) a statement that notice of the audit has been given to all known, unpaid claimants;
- (c) a statement of the former minor or, if the former minor has been adjudicated an incapacitated person, of the guardian of the estate of the former minor, setting forth the date the former minor attained majority; and that the former minor or the guardian of the estate of the former minor:
 - (i) has examined the account;
 - (ii) approves the account and requests that it be confirmed; and
 - (iii) agrees that the guardian of the estate of the minor shall be discharged upon distribution to the former minor or to the guardian of the estate of the former minor of the balance shown in the account, subject to such additional credits as may be authorized by law and set forth in the adjudication.

(6) Accounts of Guardians of the Estates of Incapacitated Persons. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of an incapacitated person, counsel shall electronically file:

- (a) a statement of the manner and date of appointment of the guardian and a copy of the decree by which the guardian was appointed; and
- (b) a statement of whether a personal representative has been appointed if the incapacitated person is deceased; and if so, the date and place of grant of letters and a valid certificate of appointment.

(7) Accounts of Agents under Power of Attorney. In addition to the papers required by Rule 2.4B(1), at the time of filing an account of an agent under power of attorney, counsel shall electronically file a copy of the power of attorney, certified by the accountant or counsel to be true and correct.

(8) Distribution to Foreign Fiduciary. In addition to the papers required by Rule 2.4B(1), at the time of filing an account, when a share of the estate is distributable to a foreign fiduciary, counsel shall electronically file:

- (a) a certificate of appointment issued within three months of the date of the filing or a copy of the instrument evidencing the authority of the fiduciary to receive the fund, certified by the proper authorities at the place of issuance to be in effect at the time of the filing;
- (b) an affidavit by the foreign fiduciary setting forth whether or not an ancillary administrator has been appointed in Pennsylvania, together with averments that:
 - (i) the foreign fiduciary is authorized, under the laws of the jurisdiction in which the foreign fiduciary qualified, to receive the fund to be distributed;
 - (ii) the filing of security has been waived, or the amount of the bond which has been filed and the name of the surety; and
 - (iii) there are no creditors within the Commonwealth of Pennsylvania of the estate for which the foreign fiduciary has been appointed and no rights of any resident of Pennsylvania will be adversely affected by the requested distribution.

Probate Section Comment: The requirements of paragraph (8) are based on 20 Pa.C.S. § 4101 et seq. Particular attention is directed to Section 4111 and its correlation with paragraph (8)(b)(iii) of the Rule. Under Section 4111, the Court has broad discretionary power to refuse distribution of a share of an estate to the domiciliary personal representative of a deceased nonresident creditor or other distributee and to require an ancillary administration in Pennsylvania.

Rule 2.5A. Advertisement of Accounts. Posting.

The Clerk shall give notice of all accounts and of the time and place of the call of the audit list by:

- (1) advertising once a week for two (2) successive weeks in *The Legal Intelligencer* and in one (1) Philadelphia daily newspaper of general circulation; and
- (2) posting copies of the audit lists in the office of the Clerk.

Rule 2.6A. Filing for a Particular Audit.

An account to appear on a particular audit list must be electronically filed not later than 3 p.m. on the fifth Wednesday preceding the day on which such list will be called.

Rule 2.6B. When Audit Lists Called. Postponed or Adjourned.

Generally, the audit lists shall be called during the week beginning with the second Monday of September and the weeks beginning with the first Monday of other months. The call of an audit list may be postponed or adjourned at the discretion of the Auditing Judge or the Court. When the first Monday of the month falls on a holiday on which the Courts are closed, the audit list shall be called on the next business day.

Rule 2.7A. Appearances at Audit.

Counsel for the accountant, the accountant, and any other interested party appearing *pro se* who desires to raise objections or otherwise be heard, shall personally appear at the call of the audit list and enter an appearance on the form supplied by the Court.

Rule 2.9A. Schedules of Distribution.

- (1) Filing. When directed by the Auditing Judge or at the election of the accountant, a schedule of distribution, in the form approved by the Court, shall be electronically filed with the Clerk. The Auditing Judge, in his or her discretion, may direct that only awards of real property or personal property, to be distributed in kind, need be included in the schedule of distribution.
- (2) Certification. The attorney for the accountant shall certify that the schedule of distribution is correct and in conformity with the adjudication. See below (3)(a), (3)(b)(ii) and (6)(b) for additional statements to be included in the certification where appropriate.

(3) Consent or Notice.

(a) Written consents to the schedule of distribution may be attached thereto. The attorney for the accountant shall certify whether or not the parties whose consents are attached constitute all interested parties affected by the filing of the schedule of distribution and all other parties to whom notice was directed by the Court.

(b) Notice of the filing of the schedule of distribution shall be given to all interested parties affected thereby and to such other parties as the Court may direct, except those parties whose consents are attached. The notice shall state the date of filing, that a copy of the schedule of distribution accompanies the notice or will be sent upon request, and that any party who objects to the schedule of distribution must electronically file objections within twenty (20) days of the filing of the schedule of distribution under penalty that the Court may otherwise assume that there is no objection and may approve the schedule of distribution as filed.

(i) Notice shall be given no later than the day of the filing of the schedule of distribution, by a letter addressed to the last known address of the party or to his or her attorney of record.

(ii) It shall be sufficient return of notice for the attorney for the accountant to certify on the schedule that due notice of the filing thereof was given as required by this Rule. A copy of the letter of notice and a list of those to whom notice was sent shall be submitted with the schedule.

(4) Objections.

(a) Objections may be electronically filed within twenty (20) days of the filing of the schedule of distribution, and shall indicate the basis for the objections and in what respect the schedule of distribution fails to conform to the adjudication. In no event may objections raise questions which actually were or could have been raised at the audit of the account.

(b) Objections shall be electronically filed with the Clerk. The Auditing Judge shall re-examine the subject matter; may hold a hearing or argument thereon, at the Auditing Judge's discretion; and may make such disposition of the objections as the Auditing Judge deems proper in a supplemental adjudication.

(5) Approval.

(a) Where the consents of all necessary parties are attached, the Court may approve the schedule of distribution immediately upon filing. Where notice was given to any party, the Court may approve the schedule of distribution twenty (20) days after the filing thereof.

(b) In the absence of objections, the schedule of distribution shall become absolute on the date of approval thereof.

(c) Where objections have been filed and dismissed, the schedule of distribution shall be approved.

(d) Upon approval of the schedule of distribution, the accountant shall have the authority to make necessary assignments and transfers of any property awarded.

(6) Confirmation of Title to Real Property. Approval of the schedule of distribution shall constitute confirmation of title in the distributees.

(a) Separate Awards. A schedule of distribution shall set forth separate awards of real property in separate paragraphs.

(b) Description. Certification by Counsel. Real property shall be described in the same detail and with the same particularity as is commonly required to be included in deeds, and, in addition, shall include information pertinent to the derivation of title. Counsel for the accountant shall certify that counsel or counsel's agent has examined the last recorded deed or the record thereof in the public office for recording deeds in the county in which the real estate is located and that the description in the schedule of distribution is in conformity therewith.

(c) Certification by Clerk. The Clerk shall, upon request, certify excerpts from an approved schedule of distribution for recording in any public office for recording deeds.

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

Rule 2.10A. Content of Report for Foreign Heirs and Unknown Distributees.

The report required by Pa. O.C. Rule 2.10(b) shall be submitted at the audit, and shall include, substantially, the following:

(1) Unknown Distributee. If it appears that the identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit a written report, verified by affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

(a) the nature of the investigation made to locate the heirs of the decedent, in complete detail; and

(b) in cases of intestacy, or where there are no known heirs, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

The term "investigation," as used in this Rule, shall include inquiry of or as to as many of the following as may be pertinent and feasible: residents of the household in which the decedent resided; friends and neighbors; labor union membership; places of employment; social, fraternal, or beneficial organizations; insurance records; church membership; school records; social security, Veterans' Administration, or military service records; naturalization records, if not native born; and such other sources of information as the circumstances may suggest.

(2) Non-Resident Distributee. If the fiduciary requests the Court to withhold distribution to a non-resident distributee, he shall submit a written report, verified by the affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

- (a) the relationship of the distributee to the decedent, and any available information concerning the distributee's present whereabouts;
- (b) in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and
- (c) the reasons for the request that distribution be withheld, and the suggested manner of withholding.

Rule 2.11A. Charitable Trusts. Visitorial Powers.

(1) Exercise: In General. In the exercise of its visitorial and supervisory powers over charitable trusts, in general, the Court will, in its discretion, from time to time, by general rule or special order, direct the official examiner, or a special examiner appointed for the purpose, to make an examination of the assets of a designated trust and an investigation to determine whether the purposes of the trust are being carried out in the manner provided by the trust agreement; and to submit to the Court a written report thereon which shall follow as nearly as may be the form prescribed by Pa. O.C. Rule 9.4 for a master's report and shall contain specific recommendation for the Court's consideration.

(2) Cemetery Trusts. In the exercise of its visitorial and supervisory powers over cemetery trusts, the Court will, from time to time, appoint a cemetery trust examiner, or examiners, who shall, periodically, inspect all cemetery lots and places of interment or sepulcher maintained under cemetery trusts subject to the jurisdiction of the Court; audit, informally, trustee's accounts pertaining thereto; examine the assets thereof; and submit written reports thereon to the Court in accordance with such rules and regulations as the Court will, from time to time, promulgate.

Rule 2.11B. Termination of Trust.

A trustee making distribution of the corpus of a trust upon its termination without formal accounting shall obtain from the distributees a receipt and waiver of accounting which shall be delivered to the examiner and attached to the examiner's report thereof. Such receipt and waiver shall not constitute an approval by the Court of the administration of the trust, nor operate as a discharge by the Court of the trustee or the trustee's sureties. If an estate is distributed without an accounting, the fiduciary shall be personally liable for the compensation of the examiner, unless provision is made therefor at the time of distribution.

Rule 2.11C. Compensation.

(1) In General. Each estate shall be liable for the compensation of the examiner based upon a schedule of fees fixed by the Court or as determined by the Court.

(2) Cemetery Trusts. The cemetery trust examiner, or examiners, appointed under Rule 2.11A supra, shall be paid by the trustees in an amount fixed by the Court.

CHAPTER III. PETITION PRACTICE AND PLEADING

Rule 3.4A. Exhibits, Consents, Approvals, Checklists, and Attachments.

Exhibits, consents, approvals, checklists, and attachments shall meet the requirements of Pa. O.C. Rule 1.8 and Rule 1.8A.

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

Rule 4.2A. Method. Absentee Individuals and Presumed Decedents.

Whenever notice is to be given to an absentee or a presumed decedent, it shall be given in the manner provided by Act of Assembly, or, in the absence thereof, in such manner as the Court by special order shall direct.

Rule 4.7A. Electronic Filing and Service of Legal Papers.

- (1) Electronic Filing. Parties shall file all legal papers with the Clerk by means of electronic filing.
- (2) Website, Username and Password.
 - (a) Website. The Orphans' Court Electronic Filing System shall be available at all times at the Court's website address, <http://courts.phila.gov>, or at such other website as the Court may designate from time to time.
 - (b) Username and Password. To obtain access to the Orphans' Court Electronic Filing System, counsel or a party not represented by counsel ("filing party") shall apply for a Username and Password at the Court's website.
- (3) Electronic Filing of Legal Paper.
 - (a) A filing party shall file all legal papers and exhibits at the Court's website.
 - (b) The Clerk shall not maintain a hard copy of any legal paper or exhibit filed electronically under this Rule.
 - (c) A hard copy of the legal paper shall be signed and, as required, verified prior to the electronic filing of the legal paper, and the filing party shall retain such hard copy as required by Pa. O.C. Rule 4.7(c).
- (4) Redaction and Access.
 - (a) All legal papers and exhibits filed electronically shall be available electronically to the filing parties, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.
 - (b) The Clerk shall provide public access to a redacted copy of electronically-filed legal papers and exhibits, as the Court may provide from time to time. The Clerk shall maintain computer terminals in the Clerk's office for this purpose.

(c) The Clerk shall redact the following personal data identifiers from an electronically filed legal papers, including the Cover Sheet but excluding exhibits, for public access:

- (i) The name of the minor in minors' estates.
- (ii) Social Security numbers.
- (iii) Dates of birth.
- (iv) Financial account numbers.
- (v) Home addresses.

(d) A filing party shall redact the personal data identifiers listed in subsection (c) from all exhibits to a legal paper. The Clerk shall not review exhibits to determine whether personal data identifiers have been redacted.

(5) Filing Date.

(a) Immediately upon receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been received by the Court's Electronic Filing System.

(b) Within six (6) business hours of receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been accepted for filing or rejected.

(c) A legal paper accepted for filing shall be deemed to have been filed as of the date and time it was received by the Court's Electronic Filing System. If a legal paper is rejected, the Clerk shall specify the reason. Subject to the provisions of subsection (d), a rejected legal paper shall be deemed as not having been filed.

(d) Any filing party for whom the failure of the Court's website or the erroneous rejection of a legal paper resulted in an untimely filing may file a petition requesting that the legal paper be deemed filed as of the submission date. Such petition shall state the date and time of the alleged failure or rejection. A petition alleging failure of the Court's website shall state why the legal paper could not be timely filed in person in the Clerk's office. A petition alleging erroneous rejection of a legal paper shall state why the rejection was erroneous and why the legal paper could not be timely re-submitted.

(6) Automation Fee. Payment of Filing Fees.

(a) The Clerk shall collect, in addition to all other applicable fees, an automation fee of \$10.00 for each legal paper for which a filing fee is now charged.

(b) The Clerk is authorized to charge the sum of \$1.00 per page for each page of a legal document or exhibit which is not filed in pdf.

(c) All fees collected pursuant to this Rule shall be set aside by the Clerk and remitted to the First Judicial District and shall be used by the Court consistent with Pa. O.C. Rule 4.7(f)(2).

(d) The Clerk shall not accept a legal paper as filed before payment of the required filing fee.

(7) Local Procedures. The Court may develop further administrative procedures, as needed, to implement this Rule and to provide for security of the electronic filing system, as required by changing technology. All such administrative procedures shall be posted on the Court's website.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.2A. Family Exemption. Additional Requirements.

(1) Contents of Petition. A petition for the family exemption shall also set forth in separate paragraphs:

- (a) the name, residence and date of death of decedent;
- (b) the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent at the date of his death;
- (c) if petitioner is the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;
- (d) whether the decedent died testate or intestate; where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;
- (e) the location and valuation of the property claimed; and
- (f) that notice has been given in accordance with Pa. O.C. Rule 3.5 to the personal representative or, when no letters have been granted, to the parties adversely affected.

(2) Exhibits. In addition to those otherwise required, the following exhibits shall be attached to the petition:

- (a) a copy of the will;
- (b) a copy of the inventory showing the valuation of the property claimed, when the exemption is claimed from personal property, and the gross estate exceeds the amount of the family exemption provided by law; and
- (c) a verified return of notice.

Rule 5.2B. Allowance for Family Exemption.

(1) Prior to Audit. The petition may be electronically filed with the Clerk at any time prior to audit in order that the demand may be a matter of record.

(a) Personal Property. If the petition requests the exemption prior to audit, the petitioner shall electronically file the petition with the Clerk and thereafter shall give twenty (20) days' written notice of such filing to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of a responsive pleading, on presentation of a verified return of notice, an appropriate decree may be entered.

(b) Real Property. If the petition requests the exemption prior to the audit and the interested parties do not agree upon the valuation, the practice

and procedure shall be as provided by Pa. O.C. Rule 5.2(a) and Rule 5.2C.

(2) At Audit. The filing of the petition prior to audit shall be brought to the attention of the Auditing Judge, or the request may be presented at the audit. The Auditing Judge may require that the property claimed be appraised or that notice be given in such manner as the Auditing Judge shall direct.

Rule 5.2C. Appraisal. Notice. Confirmation.

(1) Filing of Appraisal. The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.

(2) Notice of Appraisal. Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then 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 for the family exemption will be requested and may be allowed by the Court, of which not less than twenty (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 shall direct.

(3) Confirmation and Setting Apart of Allowance. In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

Rule 5.3A. Allowance to Surviving Spouse of Intestate. Additional Requirements.

(1) Contents of Petition. A petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

- (a) the information required in a petition for family exemption under Rule 5.2A, as far as appropriate;
- (b) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and
- (c) that notice has been given in accordance with Pa. O.C. Rule 3.5 to the personal representative; if no personal representative has been appointed, then to those interested as next of kin; if there are no next of kin, then to the Attorney General.

- (2) Exhibits. The following exhibits shall be attached to the petition:
- (a) if a ceremonial marriage occurred, a certified copy of the marriage certificate;
 - (b) if there were prior marriages by either spouse, a copy of the death certificate, if dissolved by death; or a certified copy of the decree of divorce by which such marriages were dissolved;
 - (c) a copy of the inventory and appraisement;
 - (d) a copy of any executed consent; and
 - (e) a verified return of notice.

Rule 5.3B. Appraisal. Notice. Confirmation.

- (1) Filing of Appraisal. The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.
- (2) Notice of Appraisal. Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then 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 surviving spouse will be requested and may be allowed by the Court, of which not less than twenty (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 shall direct.
- (3) Confirmation and Setting Apart of Allowance. In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

Rule 5.4A. Petition for Citation to Restrain the Payment or Transfer of Property Under 20 Pa.C.S. § 2211(d).

- (1) Contents of Petition. The petition of an electing spouse shall set forth the following:
- (a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;
 - (b) if an election has been filed, the date of the filing, and the date and method of notice to the decedent's personal representative of the filing;
 - (c) an averment that the property whose transfer or payment the petitioner seeks to restrain is property which may be subject to election as set forth in 20 Pa.C.S. § 2203 and a detailed description of the property to the extent known by the petitioner, which shall include the following:

- (i) the nature of the property and its approximate fair market value;
- (ii) the names of all persons holding title to the property at the time of the decedent's death and at the time of presenting the petition;
- (iii) the identification of any fiduciary having an interest in the property; and
- (iv) the nature of the decedent's interest in the property and the date of any transfers of any interest held by the decedent in the property;

- (d) an averment that failure to restrain the transfer or payment of the property may result in irreparable injury to the petitioner;
- (e) any other information relevant to the disposition of the petition; and
- (f) a prayer for a citation, directed to all persons whom the petitioner alleges may transfer or make payments of the property described in paragraph (1)(c) hereof, to show cause why they should not be restrained from making payments or transfers of the aforesaid property.

(2) Exhibits. The following shall be attached to the petition:

- (a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and
- (b) consents to the relief requested signed by those interested parties who have consented thereto and who have not joined in the petition.

(3) Service of Citation and Notice. Service of the citation and notice on all interested parties shall be made in accordance with Pa. O.C. Rule 3.5(a).

(4) Decree. There shall be attached to the face of the petition:

- (a) A preliminary decree in approved form awarding a citation as requested in the petition; and
- (b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

Rule 5.4B. Petition to Extend the Time for a Surviving Spouse to file for an Elective Share in Accordance With 20 Pa.C.S. § 2210(b).

(1) Contents of Petition. A petition by a surviving spouse shall set forth the following:

- (a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;
- (b) the fact(s) relied upon to justify an extension of time in which to file an election;
- (c) any other information relevant to the disposition of the petition; and
- (d) a prayer for the extension requested.

- (2) Exhibits. The following shall be attached to the petition:
- (a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property which may be subject to the spouse's elective rights; and
 - (b) consents to the extension requested signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.
- (3) Notice. Any interested party who does not join in the petition or consent to the extension shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.
- (4) Decree. A proposed decree in approved form shall be attached to the face of the petition.

Rule 5.5A. Appointment of Guardian *ad litem* or Trustee *ad litem*. Report Requirements.

- (1) Time of Filing of Report. The guardian *ad litem* and/or trustee *ad litem* shall electronically file the report within 60 days after appointment by the Court unless the time for filing is otherwise shortened or extended by (a) the Court or (b) agreement of the parties.
- (2) Contents of Report. The report of the guardian *ad litem* and/or trustee *ad litem* shall contain the following:
- (a) a statement of when, how and why the guardian *ad litem* and/or trustee *ad litem* was appointed;
 - (b) the identity and interests of persons on whose behalf the guardian *ad litem* and/or trustee *ad litem* has been appointed;
 - (c) a review of the account, if applicable;
 - (d) a statement of the legal and other issues involved and the position of the guardian *ad litem* and/or trustee *ad litem* with respect thereto;
 - (e) such other information as the guardian *ad litem* and/or trustee *ad litem* deems relevant; and
 - (f) the report may also contain a request by the guardian *ad litem* and/or trustee *ad litem* for compensation.

Rule 5.6A. Minor's Estate. Restricted Account.

- (1) Waiver of Security. In lieu of the entry of security, the Court, in the decree appointing the guardian, may authorize the guardian to deposit the funds of the minor in an interest-bearing account or certificate of deposit in a bank with an office located in Philadelphia County in an amount not to exceed the insured

amount; subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without order of Court. Proof of deposit evidencing the restriction shall be electronically filed with the Court within sixty (60) days.

(2) Limitation. An account or certificate of deposit under this Rule shall not exceed the amount which is fully insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

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

(4) A depository in which a guardian of the estate of a minor has deposited the funds in a restricted savings account or certificate of deposit pursuant to Court order is authorized to release sufficient funds therefrom to pay income taxes levied by the state or federal government upon said minor's estate upon the signature of the guardian without Court approval.

Rule 5.6B. Minor's Estate. When Guardian Unnecessary.

(1) Disposition. In General. If the value of the real and personal estate of a minor does not exceed the statutory limitation, the Court may:

- (a) authorize payment or delivery thereof to the minor, or the parent or other person maintaining the minor;
- (b) direct the deposit of the money in a restricted account, in the name of a natural guardian of the minor, or of the minor himself; or
- (c) make such provision for the retention or deposit of securities or other assets, as the Court shall deem for the best interests of the minor.

(2) Mortgage or Sale of Real Property. If the entire estate of a minor does not exceed the statutory limitation, the Court, upon petition, may authorize the parent or other person maintaining the minor to convey or mortgage any real property forming a part or all of such estate, without the appointment of a guardian or the entry of security. The petition shall conform to the requirements of the Rules governing the sale or mortgage of real property by a guardian. The order of the Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

Rule 5.6C. Minor's Estate. Allowances.

(1) In General.

(a) Responsibility of Guardian. Expenditures from income for the benefit of the minor should ordinarily be made by the guardian upon the guardian's own responsibility without application to the Court for approval.

(b) Petitions. Permissive. Mandatory.

(i) Permissive. The guardian may petition the Court for approval of periodical payments from income needed for the maintenance, support or education of the minor, the minor's spouse or children.

(ii) Mandatory. No payments shall be made by the guardian, unless approval by the Court is first obtained, when payment is to be made from principal.

(2) Contents of Petition. Allowance for Maintenance, Support or Education. A petition for an allowance from a minor's estate, for the maintenance, support or education of the minor, the minor's spouse or children, shall set forth:

(a) the manner of the guardian's appointment and qualification, and the dates thereof; and the terms of the instrument creating the estate;

(b) the age and residence of the minor; whether the minor's parents are living; the name of the person with whom the minor resides; and, if married, the name and age of the minor's spouse and children;

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

(d) the circumstances of the minor, whether employed or attending school; if the minor's mother or father, or other person charged with the duty of supporting the minor, is living, the financial condition and income of such person and why such person is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor, or the minor's spouse and children;

(e) the date and amount of any previous allowance by the Court, and the name of the Judge who granted it;

(f) the financial requirements of the minor and the minor's family unit, in detail, and the circumstances making such allowance necessary; and

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

(3) Contents of Petition. Allowance of Counsel Fee. A petition for the allowance of counsel fee shall set forth the views of the guardian with respect to the reasonableness of the fee and contain sufficient facts to enable the Court to pass judgment on the matter. The following exhibits shall be attached to the petition:

(a) a statement of counsel setting forth in detail the nature and extent of the services performed;

- (b) the joinder of the minor's 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, and in all cases of a married minor, of his or her spouse; and
- (c) the joinder of the minor, if over eighteen (18) years of age.

Rule 5.10A. Petitions for Leave to Sell Real Property at Public Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition.

- (a) A petition by a personal representative shall set forth the following information:
 - (i) the name, residence and date of death of the decedent; whether he died testate or intestate; and the date letters were granted to the petitioner;
 - (ii) that the petitioner is not otherwise authorized by statute to sell; or is not authorized to do so by the will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;
 - (iii) the total value of the property set forth in the inventory and the date it was filed;
 - (iv) the value at which the real property to be sold was included in the inventory;
 - (v) if bond was entered, the name of the surety and the amount of such bond;
 - (vi) the names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale;
 - (vii) the street address or other adequate description of the property to be sold, a brief description of the building erected upon the property, the current occupant of the property and the current tax assessment;
 - (viii) a list of all liens of record known to the petitioner; and
 - (ix) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.
- (b) A petition by a trustee shall set forth the following information:
 - (i) how title was acquired, stating the date and place of probate of the will or recording of the deed to the trustee;
 - (ii) a recital of the relevant provisions of the will, deed or trust agreement pertaining to the real property to be sold and a recital of the history of the trust;
 - (iii) that the petitioner is not otherwise authorized to sell by statute or the will, deed, trust agreement or other relevant instrument; or

that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(iv) the total approximate current value of property held in trust; and

(v) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(c) A petition by a guardian of a minor's estate shall set forth the following information:

(i) the circumstances of the petitioner's appointment;

(ii) the name, age and residence of the minor; the names of the minor's parents and whether either of them is deceased;

(iii) how title was acquired;

(iv) if an inventory was filed, the total value of the property set forth therein and the date it was filed, and the value at which the real property to be sold was included therein;

(v) the total approximate current value of property held by the petitioner;

(vi) a recital of the provisions of the will, deed, trust agreement or other relevant instrument relating to the real property to be sold;

(vii) that the petitioner is not authorized to sell the real property; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(viii) the nature and extent of the interest of the minor, of the petitioner and of third persons in the real property;

(ix) sufficient information to enable the Court to find that the proposed sale is in the best interest of the minor; and

(x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(d) A petition by a guardian of an incapacitated person's estate shall set forth the following information:

(i) the date of the petitioner's appointment and the name of the Hearing Judge;

(ii) the domicile of the incapacitated person and the institution, if any, at which the incapacitated person is maintained;

(iii) how title was acquired;

(iv) the total value of the property set forth in the inventory and the date it was filed;

(v) the value at which the real property to be sold was included in the inventory;

(vi) the total approximate current value of property held by the petitioner;

(vii) a statement of all claims of the incapacitated person's creditors known to the petitioner;

(viii) sufficient information to enable the Court to find that the proposed sale is in the best interest of the incapacitated person;

(ix) if the property to be sold is the incapacitated person's former residence, an averment that he is not likely to return to live in it; and
(x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

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

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed; and

(b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.

(3) Notice of Petition for Public Sale. Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(4) Decree. A proposed decree providing that the real property be offered for public sale and that a return of sale be electronically filed with the Court shall be attached to the face of the petition.

(5) Notice of Public Sale. Notice and advertisement of the public sale of real property shall specify the time and place of the proposed sale, clearly identify the property by street address or other adequate description, and be given:

(a) by advertisement in the legal publication, if any, designated by Rule of Court of that county for publication of notices, the publication to be made not less than twenty (20) days before the date of sale;

(b) as ordered by the Court, by advertisement in a newspaper of general circulation in each county wherein any portion of the real estate is located;

(c) by posting a notice at a conspicuous place on the premises; and

(d) at least twenty (20) days prior to sale, by notice to each interested party by service on the attorney appearing of record for such party, or if there is no such attorney, by personal service or, if the party's residence is known, by delivery at such residence or by mail.

(6) Post-Sale Return of Notice. The petitioner shall electronically file with the Court an affidavit which shall set forth:

(a) The price obtained;

(b) The name and address of the purchaser and an averment that the purchaser was the highest bidder; and

(c) Proof of notice given as required by Rule 5.10A(5), including dates of publication.

Rule 5.11A. Petitions for Leave to Sell or Exchange Real Property at Private Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition. A petition under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10A with regard to a petition to sell real property at public sale and, in addition, it shall set forth the following information:

- (a) the name and address of the purchaser and a brief recital of the terms of sale; and
- (b) the estimated net proceeds which the petitioner will receive at the time of settlement.

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

- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;
- (b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them;
- (c) a copy of the agreement of sale;
- (d) a schedule setting forth the computation of the estimated net proceeds which the petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and
- (e) the affidavits of two real estate appraisers or brokers not of the same office, setting forth the information required under Pa. O.C. Rule 5.11(b).

(3) Notice. Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(4) Decree. A proposed decree approving the sale and, where appropriate, fixing the amount of security to be entered by the petitioner shall be attached to the face of the petition.

Rule 5.12A. Petition for Leave to Mortgage or Lease Real Property Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition. A petition by a fiduciary under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10.A with regard to a petition to sell real property at public sale by the same fiduciary; and, in addition, it shall set forth the name of the proposed mortgagee or lessee, the amount and terms of the proposed mortgage loan or lease and sufficient facts to enable the Court to determine whether the proposed mortgage or lease should be approved.

- (2) Exhibits. The following exhibits shall be attached to the petition:
- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;
 - (b) consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them; and
 - (c) a statement by the proposed mortgagor agreeing to grant the mortgage loan.
- (3) Notice. Any interested party who does not join in the petition or consent to the mortgage or lease shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.
- (4) Decree. A decree in approved form shall be attached to the face of the petition approving the mortgage or lease and, where appropriate, fixing the amount of security to be entered by the petitioner.

Rule 5.13A. Public Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.

- (1) Contents of Petition.
- (a) Trustee. A petition to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq. shall also set forth in separate paragraphs:
- (i) how title was acquired, stating the date and place of probate of the will or recording of the deed;
 - (ii) a full description of the real property, its improvements, by whom it is occupied, its rental value, the current tax assessment, and the liens and charges to which it is subject;
 - (iii) the interest of the petitioner, if a fiduciary, how and when such fiduciary was appointed; if other than a fiduciary, the name of the fiduciary, if any, and how and when such fiduciary was appointed;
 - (iv) 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 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;
 - (v) the limitations or defeasibility from which title is to be freed, following as closely as possible the language of 20 Pa.C.S. § 8301; and 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;

(vi) sufficient facts to enable the Court to determine whether the proposed sale will be to the interest and advantage of the parties, and whether the said sale may be made without prejudice to any trust, charity, or purpose for which the real property is held, and without the violation of any law which may confer an immunity or exemption from sale or alienation; and

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

(b) Guardian. A petition by a guardian to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

(i) that the petitioner was appointed guardian of the estate of the minor, stating the method, date and record of appointment; or, if the estate of the minor consists of an interest in real property of a value not exceeding the statutory limitation provided in 20 Pa.C.S. §§ 5101 and 5102, 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;

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

(iii) 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 the 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 parties, the nature of their interest, that they desire the sale to be made, and are willing to join in the deed;

(iv) the age of the minor; the names of his or her next of kin; and the notice given them of the filing of this petition; and

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

(2) Exhibits. The following exhibits shall be attached to a petition by a fiduciary to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq.:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed; and

(b) consents to the sale signed by those interested parties who consent thereto, and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) Notice. Security. The practice and procedure with respect to the entry of security and notice shall conform to the appropriate provisions of Rule 5.10A(1)(a)(v) and Rule 5.10A(5).

Rule 5.13B. Private Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.

(1) Contents of Petition.

(a) Trustee. A petition by a trustee to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

- (i) the information required under Rule 5.13A(1);
- (ii) the name and address of the proposed purchaser, the price to be paid; the terms of the proposed sale; and that the price offered is better than can be obtained at a public sale; and
- (iii) when the proposed sale is of an undivided interest, that the other interested parties desire the sale to be made and are willing to join in the deed.

(b) Guardian. A petition by a guardian to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

- (i) the information required under Rule 5.13A(2); and
- (ii) the name and address of the proposed purchaser, the price to be paid, the terms of the proposed sale, and that the price offered is better than can be obtained at a public sale.

(2) Exhibits. The following exhibits shall be attached to a petition by a fiduciary to sell real property at private sale under 20 Pa.C.S. § 8301 et seq.:

- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed;
- (b) a copy of the agreement of sale;
- (c) affidavits by two real estate appraisers setting forth the information required by Pa. O.C. Rule 5.10(b); and
- (d) consents to the sale signed by those interested parties who consent thereto and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) Notice. Security. The Court, in the decree approving or confirming the sale, will fix the amount of security which the fiduciary shall be required to enter. The practice and procedure with respect to notice shall conform to the appropriate provisions of Rule 5.11A.

Rule 5.13C. Mortgage of Inalienable Property under 20 Pa.C.S. § 8301.

(1) Contents of Petition. A petition by a fiduciary to mortgage real property, under 20 Pa.C.S. § 8301 et seq., shall conform as closely as practicable to the requirements of these Rules 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 set forth sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(2) Exhibits. Security. The exhibits required by Rule 5.12A(2) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304. Security shall be fixed as provided by Rule 5.12A(4).

Rule 5.13D. Real Estate or Fiduciaries in Other Counties of Inalienable Property. 20 Pa.C.S. § 8301.

(1) Fiduciaries whose appointments originated in this county shall obtain leave of this Court to petition the Court of another county of this Commonwealth, under 20 Pa.C.S. § 8301 et seq., to sell or mortgage real property located in that county. Such leave may be obtained by petition to this Court setting forth briefly the substantial averments of a petition for the sale or mortgage of real property.

(2) Fiduciaries whose appointments originated in other counties of this Commonwealth shall obtain leave of the Court of their appointment to petition this Court under 20 Pa.C.S. § 8301 et seq. to sell or mortgage real property located in this county. The petition to this Court shall comply with the provisions of these Rules with regard to the sale or mortgage of real property, and shall include, as exhibits, copies of the petition and of the decree of the Court of origin.

Rule 5.16A. Settlement of Small Estates under 20 Pa.C.S. § 3102.

(1) Contents of Petition. A petition for the settlement of a small estate shall set forth:

- (a) the name, date of death and residence of the decedent;
- (b) the name and address of the petitioner and petitioner's relationship to the decedent;
- (c) if petitioner is the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;

(d) whether the decedent died testate or intestate; if letters were granted, where, to whom and when they were granted; and the amount of bond (if any) given by the personal representative;

(e) the names, relationships and a brief description of the interests of all persons entitled to share in the decedent's estate under the will or intestate laws; a statement as to whether any of them is a minor, an incapacitated person or deceased, with the name of his or her fiduciary, if any; and a statement as to whether any of them has received or retained any property of the decedent under 20 Pa.C.S. § 3101, or otherwise;

(f) the person or persons, if any, entitled to the family exemption and, if a claim is to be made in the petition, any additional facts necessary to establish the right thereto, as required by Pa. O.C. Rule 5.2 and Rule 5.2A;

(g) a list of the assets of the decedent and the value of each asset, either incorporated in the petition or attached as an exhibit;

(h) an itemized list, either incorporated in the petition or attached as an exhibit, setting forth under separate headings:

(i) all disbursements made prior to the filing of the petition, including the amounts and dates paid, the names of the payees and a description of the purposes of the disbursements; and

(ii) all unpaid claims against the estate, including the amounts of such claims, the names of the claimants, the bases for such claims and indicating which claims are admitted. In the case of an insolvent estate,

(iii) such disbursements and unpaid claims shall be listed under separate categories according to the order of priority of payment under 20 Pa.C.S. § 3392 for insolvent estates.

(i) an averment as to the status of the inheritance tax;

(j) an averment that twenty (20) days written notice of the filing of the petition has been given to every unpaid beneficiary, heir or claimant who has not joined in or consented to the petition, and, if the decedent's heirs are unknown, to the Attorney General; and

(k) a prayer for distribution of the personal property to those entitled and, in appropriate cases, for the discharge of the personal representative and the release of any surety.

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

(a) a copy of the decedent's will certified by counsel to be a true and correct copy;

(b) consents to the petition signed by those unpaid beneficiaries, heirs and claimants who do not join in the petition, and the names of any of them who do not consent and a copy of the notice which has been given to them; and

(c) a copy of the official Inheritance Tax Assessment and, if an inheritance tax payment was made prior to the date of filing the petition, a copy of the inheritance tax receipt.

(3) Notice. Any interested party who does not join in or consent to the petition shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(4) Decree. A proposed decree, setting forth a list of all disbursements and distributions of the assets of the estate and, in appropriate cases, providing for the discharge of the personal representative and the release of any surety, shall be attached to the face of the petition.

(5) Appraisal. No appraisal of the decedent's personal property is required, unless ordered by the Court.

Rule 5.16B. Procedure for Determination of Title to Decedent's Interest in Real Estate under 20 Pa.C.S. § 3546.

(1) Contents of Petition. A petition under 20 Pa.C.S. § 3546 for the determination of title shall set forth:

- (a) the name of the petitioner and petitioner's relationship to the decedent;
- (b) the facts on which the claim of the petitioner is based;
- (c) whether the decedent died testate or intestate, and where, when, and to whom letters were granted;
- (d) a description of real property located within the Commonwealth, and the place, book, and page of recording the last deed thereto;
- (e) the names and addresses of all known creditors and interested parties; and
- (f) the facts material to a determination of the title.

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

- (a) the notice which has been given to creditors, and interested parties; if the heirs of the decedent are unknown, a copy of the notice given to the Attorney General; and
- (b) a copy of decedent's will.

Rule 5.16C. Petitions to Fix or Waive Additional Security under 20 Pa.C.S. §§ 3351 and 7780.6(a).

(1) Contents of Petition.

- (a) In a sale, whether public or private, of real property without benefit of an order of Court directing or authorizing such sale, where a personal

representative or trustee was required to give a bond, a petition by a personal representative or trustee shall set forth the following information:

- (i) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; and the date letters were granted to the petitioner;
- (ii) the total value of all assets set forth in the inventory;
- (iii) the value at which the real property to be sold was included in the inventory;
- (iv) if bond was entered, the name of the surety and the amount of such bond;
- (v) the street address or other adequate description of the property to be sold; a brief description of the building erected on the property; the current occupant of the property; and the current tax assessment;
- (vi) the name and address of the purchaser and a brief recital of the terms of the sale;
- (vii) the estimated net proceeds which petitioner will receive at the time of settlement;
- (viii) a list of all liens of record known to petitioner;
- (ix) the names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale; and
- (x) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(b) A petition by a trustee shall set forth the following information:

- (i) how title was acquired;
- (ii) a recital of the relevant provisions of the will, trust agreement, deed or other relevant instrument pertaining to the real property to be sold;
- (iii) the estimated value of all assets currently held in trust; and
- (iv) the same information required under paragraph (a)(iv) through (x) in a petition by a personal representative.

(2) Notice. Any interested party who does not join in the petition or consent to the sale shall receive notice of the terms of sale and of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(3) Exhibits. Attached to the petition shall be the following:

- (a) a copy of the will, trust agreement, deed, or other relevant instrument;
- (b) a copy of the agreement of sale;
- (c) a schedule setting forth the computation of the estimated net proceeds which petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and

(d) consents to the sale signed by those interested parties who do not join in the petition, and the names and addresses of those parties who do not consent and a copy of the notice which has been given to them.

(4) Appraisals. No appraisal shall be required where counsel for petitioner certifies that:

(a) in counsel's opinion the estate is solvent; and

(b) counsel knows of no objection to the sale by an interested party. In the absence of such certification, an appraisal by a qualified appraiser shall be presented with the petition. The Court may order the appointment of an appraiser in any case where it deems it appropriate or necessary for the disposition of the petition.

(5) Decree. A proposed decree shall be attached to the face of the petition. In the decree the Court shall fix the amount of security which the petitioner shall be required to enter, or excuse the petitioner from entering additional security. The corporate surety shall be the same as on the original bond, unless the Court directs otherwise.

(6) Specific Petitions.

(a) Petition by a Personal Representative or a Trustee: When a personal representative or trustee is required to petition the Court to have additional security fixed or waived under Rule 5.16C, the sale must meet with Court approval; otherwise personal representatives and trustees have statutory authority to sell real property without Court approval unless a specific devisee of the real property refused to join in the sale, the personal representative or trustee wishes to bid on the property, or the governing instrument denies the power to sell. See 20 Pa.C.S. §§ 3351, 3353, 3356 and 7780.6(a).

(b) Petition by a Guardian of a Minor's Estate: A guardian of a minor's estate may be appointed by order of Court, by will in accordance with 20 Pa.C.S. § 2519(b), or by instrument of conveyance in accordance with 20 Pa.C.S. § 5115. A Court appointed guardian does not have the power to sell real property without Court approval. See 20 Pa.C.S. § 5155. A will or instrument of conveyance appointing a guardian may give the guardian power to sell without Court approval. See 20 Pa.C.S. § 5146(a).

(c) Petition by a Guardian of an Incapacitated Person's Estate: A guardian of an incapacitated person's estate does not have the power to sell real estate without Court approval.

(d) With respect to petitions to sell real property under the Inalienable Property Act, See 20 Pa.C.S. § 8301 et seq. See Rules 5.13A to 5.13D.

(e) The procedure and the information required for a petition for the private sale of real property to pay debts of a decedent shall conform, as nearly

as practicable, to the procedure and information required of a petition presented under Rule 5.11A.

Rule 5.16D. Approval of Corporate Fiduciaries. Security.

(1) In General. Financial institutions having fiduciary powers and authorized to do business in this Commonwealth, upon petition and pursuant to approval by the Court, may act as fiduciaries in matters pending in the Court, provided that a copy (either the original or photocopy) of the certificate evidencing the approval to conduct fiduciary activities issued by the appropriate state or federal banking regulator is attached to the petition. The institution shall certify in the petition that the certificate has been issued by the appropriate regulator and is valid as of the date of the petition.

(2) Period of Approval. The approval granted by the Court under paragraph (1) of this Rule shall be for a period of one year running from January 1 to December 31. In order for approval to be granted or renewed in a timely fashion, an institution must file this petition on or before December 15 in the year preceding the year in which the institution wishes to act as a corporate fiduciary. The approval granted by the Court is subject to compliance by the institution with these Rules and with such other rules and regulations governing approval or renewal as the Court will, from time to time, promulgate.

(3) Security. Except when required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

Rule 5.16E. Petition to Enforce the Rights of an Electing Spouse under 20 Pa.C.S. § 2201 et seq.

(1) Contents of Petition. The petition by an electing spouse shall set forth the following:

- (a) the name, date of death and residence of the decedent;
- (b) the name and address of the petitioner, and the petitioner's residence on the date of the decedent's death;
- (c) an averment that the petitioner is the surviving spouse of the decedent; the date and place of the ceremonial marriage, and the name and the official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;
- (d) whether the decedent died testate or intestate; if letters were granted, where, to whom and when they were granted;
- (e) the approximate value of all assets which may be subject to the spouse's election, to the extent known by petitioner;

- (f) the date of the filing of the election, and the date and method of notice to the decedent's personal representative of the filing;
- (g) a description of the party or parties against whom relief is sought, including whether each party is a fiduciary, custodian or obligor, and whether each is the original beneficial recipient or a successive donee to the property or its proceeds;
- (h) a description of the relief sought, describing the specific acts to be performed or the extent of the personal liability to be imposed;
- (i) any other information relevant to the disposition of the petition; and
- (j) a prayer for a citation to show cause why the relief sought should not be granted, or if no citation is required, a prayer for the relief requested.

(2) Exhibits. The following shall be attached to the petition:

- (a) a copy of the decedent's will, trust agreement, deed or other relevant instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and
- (b) consents to the relief requested signed by those interested parties who have consented thereto and who have not jointed in the petition.

(3) Service of Citation and Notice.

(a) Petitions Requiring the Issuance of a Citation.

(i) In accordance with Pa. O.C. Rule 3.5(a), service of the citation shall be made on all parties to whom the citation is directed, and the original citation with proof of service endorsed or annexed thereon shall be filed with the Clerk.

(ii) Petitioner shall give written notice to all other interested parties who have neither joined in the petition nor consented to the requested relief by letter and copy of citation mailed to all such parties at least twenty (20) days prior to the return date of the citation.

(iii) Counsel to petitioner shall electronically file with the Clerk, prior to the return date of the citation, a certification of mailing which shall list the names and addresses of all parties to whom notice was so given, including a copy of the notice given.

(b) Notice in the Case of Petitions Not Requiring the Issuance of a Citation. In accordance with Pa. O.C. Rule 3.5(b), petitioner shall give written notice of the filing of the petition to the Court and shall attach to the petition a certification in the form required by Pa. O.C. Rule 3.5(a),(b).

(4) Decree. There shall be attached to the face of the petition:

- (a) In the case of petition requiring the issuance of a citation, a preliminary decree in approved form awarding a citation as requested in the petition; and

(b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

Rule 5.16F. Fiduciaries in Military Service. Appointment of Substituted Fiduciary Pro Tem under 20 Pa.C.S. § 4301.

- (1) Contents of Petition. A petition under 20 Pa.C.S. § 4301 shall set forth:
- (a) the facts necessary to confer jurisdiction upon the Court;
 - (b) the estimated value of the estate;
 - (c) the names of all interested parties, the nature and extent of their interest, stating who are minors or incapacitated persons, whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent;
 - (d) that notice in accordance with Pa. O.C. Rule 3.5 has been given to all interested parties;
 - (e) the name and address of the person proposed as a substituted fiduciary pro tem, if such an appointment is requested; the nature and relationship of such person to the estate or to the parties; and
 - (f) such other facts as may be necessary to enable the Court to pass judgment on the matter.
- (2) Exhibits. A copy of the will, deed, trust agreement or other relevant instrument, the consent of the co-trustees and a verified return of notice shall be attached to the petition.

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

Rule 7.1A. Philadelphia Orphans' Court Division Practice.

- (1) Except upon agreement of counsel, leave to take depositions, or obtain discovery or the production of documents, may be granted only on petition upon cause shown.
- (2) Where leave has been granted by the Court, the procedure relating to depositions, discovery, and the production of documents shall be governed by the order of the Court.

Rule 7.1B. Pre-Trial Conference.

- (1) In any action the Court, on its own motion or on motion of any party, may direct counsel for the parties to appear for a conference to consider:
 - (a) The identification of the issues;
 - (b) The necessity or desirability of amendments to the pleadings;
 - (c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; and
 - (d) Such other matters as may aid in the disposition of the action.
- (2) The Court may make an order reciting the action taken at the conference, identifying the issues for trial, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered.

Rule 7.2A. Motion for Judgment on the Pleadings.

After the relevant pleadings are closed, but within such time as to not unreasonably delay the trial, any party may file a motion on the pleadings as follows:

- (1) The moving party shall file a motion attaching thereto a copy of all pleadings which must be considered by the Court and a brief or memorandum of law, which shall be served on all other parties as required by Pa. O.C. Rule 4.3;
- (2) The non-moving parties shall file a response within twenty (20) days of the service of the motion, may attach any document, pleading or item not attached by the moving party, and shall include a brief or memorandum of law;
- (3) Any interested party may request oral argument. The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

Rule 7.3A. Motion for Summary Judgment.

(1) General Rules. After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, and in accord with any case specific case management Order, any party may file a motion for summary judgment, as provided in Pa.R.C.P. No. 1035.1 et seq., and this Rule.

(2) Content of the Motion for Summary Judgment. The moving party shall provide the bases for the entry of summary judgment in a motion divided into consecutively numbered paragraphs. Each paragraph shall contain as far as practicable only one material allegation. The moving party must reference in each allegation the “record” (as that term is defined in Pa.R.C.P. No. 1035.1) which the moving party wants the Court to consider, and shall attach a copy of that record as an exhibit. The moving party shall include with the motion a brief or memorandum of law. The brief or memorandum of law shall provide the Court with the legal bases for summary judgment in light of the allegations made in the motion, and shall not reference any fact or pleading not raised in the motion. Any fact or allegation mentioned in the brief or memorandum of law which is not listed in the summary judgment motion will not be considered by the Court.

(3) Service of Summary Judgment Motion. The summary judgment motion, exhibits and brief or memorandum of law must be served on the party or parties against whom summary judgment is requested, as provided in Pa. O.C. Rule 4.3.

(4) Response to Motion for Summary Judgment. The adverse party or parties must electronically file a response to the motion for summary judgment within thirty (30) days of service of the motion, as provided in Pa.R.C.P. No. 1035.3. The response to the motion shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion for summary judgment. The response shall state whether each allegation is admitted or denied. No general denial is acceptable. The factual reasons for the denial or dispute must be specifically stated and the “record,” (as that term is defined in Pa.R.C.P. No. 1035.1) supporting the denial or disputed must be attached as an exhibit. A response may also include additional allegations demonstrating any genuine issue of material fact, in which event the responding party must reference and attach a copy of the “record,” (as that term is defined in Pa.R.C.P. No. 1035.1) which demonstrates the existence of a genuine issue of material fact.

(5) Any interested party may request oral argument. The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

CHAPTER IX. AUDITORS AND MASTERS

Rule 9.1A. Appointment.

(1) Auditor to Examine and Audit Account. An auditor to examine and audit an account may be appointed by the Court when all interested parties, or their counsel, consent thereto in writing.

(2) Auditor to State Account. An auditor to state an account may be appointed by the Court when a proper account cannot be obtained from a fiduciary. Such appointment may be made sua sponte or upon petition of any interested party. The auditor may be required to electronically file the account and to participate in such further proceedings as the Court may direct.

(3) Master. Amicus Curiae. A master or an amicus curiae with the powers of a master may be appointed by the Court, sua sponte or upon petition of any interested party.

Rule 9.1B. Manner of Notice and to Whom Given.

(1) The Court appointed auditor, master, or amicus curiae shall give written notice of such appointment and of the time and place of such appointee's first hearing to all persons who have appeared of record, and to such other persons and in such manner as the Court may direct.

(2) Notice of succeeding hearings given by the auditor, master or amicus curiae shall be given in accordance with Rule 9.1B(1).

Rule 9.2A. Where Filed.

Reports of auditor, master, and amicus curiae shall be filed with the Clerk.

Rule 9.6A. Time and Contents of Notice.

Auditors, masters and amicus curiae with the powers of a master shall give thirty (30) days notice prior to the filing of the report to all interested parties or their counsel with the same information as required in the notice for filing an account, as provided in Pa. O.C. Rule 2.5. A copy of the report shall also be provided at the time notice is given.

Rule 9.7A. Confirmation of Report. Objections.

(1) Objections to Report. Within twenty (20) days of receiving notice of the filing of the report, any interested party may file with the auditor written objections to the report. In such event, the auditor shall have ten (10) days to supplement the report by a full consideration of the objections seriatim, setting forth concisely all reasons for recommending that the Court sustain or dismiss each objection. The auditor shall then file the report with the Clerk, which will then be submitted to the Appointing Judge, together with a copy of the objections and the supplemental report, giving the interested parties or their counsel concurrent notice of such filing and a copy of the supplemental report. The Appointing Judge shall make such disposition thereof as the Court deems proper.

(2) Objections to Auditor Stated Account. Objections to the report of an auditor who states an account shall be asserted as objections to the auditor's account, and shall be in the form provided in Pa. O.C. Rule 2.7.

Rule 9.8A. Security for Expenses and Fees.

The Court may require that security be posted for the compensation and expenses of the auditor, master, or amicus curiae.

CHAPTER X. REGISTER OF WILLS

Rule 10.1A. Register of Wills - Forms Required to be Used.

The following forms, approved by the Supreme Court, are required pursuant to Pa. O.C. Rule 10.1, to be used in proceeding before the Register of Wills:

- (1) Estate Information Sheet (RW-01)
- (2) Petition for Grant of Letters (RW-02)
- (3) Oath of Subscribing Witness(es) (RW-03)
- (4) Oath of Non-Subscribing Witness(es) (RW-04)
- (5) Oath of Witness(es) to Will Executed by Mark (RW-05)
- (6) Renunciation (RW-06)
- (7) Notice of Estate Administration Pursuant to Pa. O.C. Rule 10.5 (RW-07)
- (8) Certification of Notice Under Pa. O.C. Rule 10.5 (RW-08)
- (9) Inventory (RW-09)
- (10) Pa. O.C. Rule 10.6 Status Report (RW-10)

The following form may be used where applicable:

- (1) Affidavit for Filing in Philadelphia County by Foreign Fiduciary.

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

Rule 14.2A. Petitions Under 20 Pa.C.S. § 5501 et seq.

- (1) Contents. Any petition filed under 20 Pa.C.S. § 5501 et seq. shall be in plain language and shall include the following (in addition to those paragraphs unique to the relief requested by the petition):
- (a) The name, residence and post office address of the petitioner and the relationship, if any, of the petitioner to the alleged incapacitated person;
 - (b) The name, date of birth, residence, post office address and occupation, if any, of the alleged incapacitated person;
 - (c) The names, ages and addresses of the spouse, dependents, parents and presumptive adult heirs of the alleged incapacitated person;
 - (d) The names and addresses of the persons or institutions providing residential services to the alleged incapacitated person;
 - (e) The names and addresses of all other service providers;
 - (f) The names and addresses of the persons or entities whom petitioner asks to be appointed guardian and an averment that all proposed guardians have no interest adverse to the alleged incapacitated person;
 - (g) The reasons the guardianship is requested;
 - (h) A description of the functional limitations and of the physical and mental condition of the alleged incapacitated person;
 - (i) The steps taken to find less restrictive alternatives;
 - (j) The specific areas of incapacity over which the guardian is requested to be assigned authority;
 - (k) The qualifications of each proposed guardian and the written consent of each proposed guardian to serve;
 - (l) Where a guardian of the estate is sought, the gross value of the estate and net income from all sources to the extent known (including but not limited to salary, income or other benefits which the alleged incapacitated person is receiving or entitled to receive);
 - (m) A copy of the most recent annual report(s), if any has been filed, certified as true and correct by counsel and the date of filing of said report(s);
 - (n) A statement as to whether the alleged incapacitated person was a member of the United States Armed Forces and whether he or she is currently receiving veterans' benefits;
 - (o) A statement as to whether the alleged incapacitated person has executed a power of attorney or an advance directive for health care; and
 - (p) A statement as to whether any other Court has ever assumed jurisdiction in any proceeding to determine the capacity of the alleged incapacitated person.
- (2) Decrees. The following decrees shall be attached to the face of a petition for adjudication of incapacity:

- (a) A preliminary decree awarding a citation directed to the alleged incapacitated person to show cause why he or she should not be adjudged an incapacitated person and a limited or plenary guardian appointed, and providing for a hearing at a time and place to be supplied by the Court. The preliminary decree shall also restate the requirements set forth in Rule 14.2B(4), (5) and (6).
- (b) A final decree adjudicating incapacity, appointing a limited or plenary guardian of the person and/or estate, directing the filing of annual reports and fixing security, if any.

(3) Filing of Petitions. All petitions under 20 Pa.C.S. § 5501 et seq. shall be electronically filed with the Clerk in the county in which the alleged incapacitated person resides, or is domiciled, or in which previous matters under this Chapter have been filed by the proposed guardian, the Court-appointed guardian or any interested party.

(4) Alleged Incapacitated Persons: Resident/Non-resident.

(a) The Court may determine the incapacity of persons domiciled or residing in the Commonwealth, and appoint guardians of the person and/or estate of the incapacitated person.

(b) The Court may determine the incapacity of persons not domiciled in the Commonwealth, having property in the Commonwealth, and appoint a guardian of the estate of the incapacitated person. The Court shall give preference in its appointment to the foreign guardian of the nonresident incapacitated person, unless such appointment would not be in the best interests of the incapacitated person.

Probate Section Comment: 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence.

Rule 14.2B. Practice and Procedure. In General.

(1) Assignment of Petitions. Petitions for the appointment of guardians of alleged incapacitated persons will be assigned to the Judges of the Court in rotation.

(2) Consent of Proposed Guardian. The written consent of the proposed guardian to act as guardian, containing the following information shall be attached to the petition:

- (a) his or her business and domicile, and

(b) that he or she is a citizen of the United States, able to speak, read and write the English language.

(3) Hearing Judge. The Judge to whom a petition is assigned will be designated "Hearing Judge." Generally, all matters pertaining to the administration of the incapacitated person's estate will be referred to the Hearing Judge.

(4) Service on Alleged Incapacitated Person and Notice to Interested Parties.

(a) Personal service on the alleged incapacitated person shall be made by petitioner, or petitioner's representative, no less than twenty (20) days before the hearing. At the time of service, the petition and citation shall be explained to the maximum extent possible in language the alleged incapacitated person will be most likely to understand and the petition and the citation shall be left with him or her. The form of notice and citation provided to the alleged incapacitated person shall be found in the Appendix of Orphans' Court and Register of Wills Forms Adopted by the Supreme Court.

(b) At least twenty (20) days before the hearing, notice consisting of copies of the petition and citation shall be sent by petitioner by certified mail to all persons who are sui juris and entitled to share in the estate of the alleged incapacitated person if he or she died intestate at that time. Notice shall also be provided to such persons or institutions providing residential services to the alleged incapacitated person and to such other parties as the Court may direct, including other service providers. If there are no known intestate heirs, notice shall be given to the Attorney General at the Eastern Regional Office in Philadelphia.

(c) The petitioner must notify the Court at least seven (7) days prior to the hearing if counsel has not been retained by or on behalf of the alleged incapacitated person.

(5) Proof of Service and of Notice.

(a) The following shall be submitted at a hearing for determination of incapacity:

(i) An affidavit of service of the petition and citation on the alleged incapacitated person, attached to or endorsed upon the original citation, reciting that the petition and citation were explained to the maximum extent possible in language likely to be understood by the alleged incapacitated person and that a copy of each was left with him or her; and

(ii) An affidavit reciting the manner of giving notice of the hearing and identifying those persons to whom such notice was given as required in Rule 14.2B(4).

(b) For all other petitions, a certification by counsel listing the persons notified and stating the date and manner of service, together with a copy of the notice given, shall be attached to petition as a separate exhibit.

(6) Attendance at Hearing.

(a) The petitioner and the alleged incapacitated person shall be present at the hearing unless:

(i) the Court is satisfied, upon the deposition or testimony of or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his or her presence; or

(ii) it is impossible for the alleged incapacitated person to be present because of his or her absence from the Commonwealth, in which case it shall not be necessary for the alleged incapacitated person to be represented by a guardian ad litem.

(b) The Court may hold a closed hearing or a hearing without a jury, subject to the right of the alleged incapacitated person or his or her counsel to demand an open hearing, or a hearing with a jury. The hearing may be held at such location as the Court shall direct, including the alleged incapacitated person's residence.

(7) Emergency Proceedings.

(a) Appointment: The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person, when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5501 et seq., including § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

(b) Applicability of Other Provisions: The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

(c) Duration of Emergency Guardianship:

(i) Person: An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, then, upon application to the Hearing Judge, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order. After the expiration of the emergency order or any extension, a full

guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511.

(ii) Estate: An emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days. After thirty (30) days, a full guardianship proceeding must be initiated pursuant to 20 Pa.C.S. § 5511.

(8) Evidence of Incapacity.

(a) Testimony: The petitioner must present testimony, whether in person or by deposition, from individuals qualified by training and experience in evaluating incapacities of the type alleged by petitioner, which establishes the nature and extent of the alleged incapacities and disabilities and the person's mental, emotional and physical condition, adaptive behavior and social skills.

(b) Independent Evaluation: If, pursuant to 20 Pa.C.S. § 5511(d), the Hearing Judge upon his or her own motion or on petition by the alleged incapacitated person for cause shown, shall order an independent evaluation to meet the requirements of 20 Pa.C.S. §5518:

Hearing Judge before the hearing and shall send a copy thereof to each counsel of record and to such other interested parties or persons as the Court may direct; and

(2) the Hearing Judge shall determine the charges for the independent evaluation and the persons responsible for the payment and shall give due consideration to any evaluator nominated by the alleged incapacitated person.

(9) Filing of an Inventory. Within three months of the adjudication of incapacity, every guardian of the estate of an incapacitated person shall electronically file an inventory with the Clerk in accordance with the provisions of 20 Pa.C.S. § 5521(b) using the form contained in the Appendix of Orphans' Court and Register of Wills Forms Adopted by the Supreme Court.

(10) Filing of Annual Reports. Within twelve (12) months of a guardian's appointment, and annually thereafter, the guardian of an incapacitated person shall electronically file a report in accordance with 20 Pa. C.S. § 5521(c)(1) with the Clerk.

(11) Testamentary Writings. A copy of all testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, certified to be true and correct, shall be submitted by the guardian or such other person to the Hearing Judge for inspection within thirty (30) days of such guardian's appointment, or when such testamentary writing(s) is subsequently discovered.

(12) Certificates of Appointment. The Clerk, in addition to issuing certified copies of the decree appointing a guardian, will issue a Guardian's Certificate in accordance with the decree when the security, if any, ordered by the Court has been entered.

Probate Section Comment: Notwithstanding paragraph (4), a shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. Although paragraph (8)(a) permits testimony by deposition, such evidence may not necessarily be considered adequate to establish incapacity. In relying on such evidence, counsel takes the risk that the petition will be denied or that the hearing will be continued so that a witness may be produced to give live testimony.

Note: Pursuant to the Pennsylvania Mental Health Procedures Act, § 109, the Court is required within seven days of finding an individual incapacitated to file a Notification of Mental Health Commitment form with the Pennsylvania State Police.

Rule 14.2C. Practice and Procedure. Small Estate of Incapacitated Persons.

If at a hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation, the Court may award the entire estate to the person or institution maintaining the incapacitated person, or make such order as may be appropriate under the circumstances. In such case, a decree in approved form, in lieu of the final decree appointing a guardian, shall be attached to the face of the petition.

Probate Section Comment: 20 Pa.C.S. § 5101 and § 5505 prescribe the statutory limitation for small estates.

Rule 14.2D. Practice and Procedure. Special Petitions.

(1) Allowances.

(a) In General: Expenditures for the maintenance or support of an incapacitated person or for dependent of the incapacitated person, or for payment of counsel fees, shall be governed by the appropriate provisions of Rule 5.6C(1) and (3); but, otherwise, as hereinafter provided.

(b) Filing of Petition and Decrees: A petition for allowance from the incapacitated person's estate, during incapacity, shall be electronically filed with the Clerk by the guardian or any interested party. A final decree

shall be attached to the face of the petition. When the petitioner is not a guardian, a preliminary decree containing a provision for the time and place for hearing to be fixed by the Court shall also be attached to the face of the petition. Notice shall be given to the guardian and to such other parties as the Court may direct.

(c) Additional Contents of Petition: In addition to the provisions set forth in Rule 14.2A(1), (a) through (e) and (m), the petition shall also set forth:

(i) the name of the guardian, the date of his or her or appointment, the nature of the guardianship of the estate or person (limited or plenary) and the name of the Hearing Judge;

(ii) If the petitioner is not a guardian, his or her relationship to the incapacitated person, and, if not related, the nature of his or her interest;

(iii) A statement of all previous distributions allowed by the Court since the date of the last Court approved accounting, if any;

(iv) An itemized statement of all claims of the incapacitated person's creditors known to petitioner;

(v) A statement of the requested distribution and the reasons therefor; and

(vi) A prayer for the distribution requested. If the allowance requested will involve a matter which will require annual petitions for substantially similar relief, the petitioner may request the Court to make the grant of the allowance applicable to more than one (1) year, but not to exceed three (3) years, unless otherwise permitted by the Court.

(d) Restrictions Governing Allowance:

(i) Except in cases of extreme emergency, requests for allowances will not be approved prior to the filing of the inventory or the last required annual report, as the case may be;

(ii) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, or any agency of the Commonwealth, notice of the request for allowance shall be given to such agency.

(2) Sales.

(a) Real Property: A petition to convey an interest in real property shall comply with the appropriate provisions of the rules governing sale under Rule 5.10A, as far as practicable.

(b) Personal Property: The Court shall be asked to approve sales of personal property only when the circumstances are unusual or where the nature of the property is such that the incapacitated person may wish to receive it in kind if he or she regains his or her capacity.

(3) Reserve for Funeral. In accordance with 20 Pa.C.S. § 5537, the Court may authorize a funeral reserve.

(4) Estate plan. In accordance with section 20 Pa.C.S. § 5536(b), the Court may substitute its judgment for that of the incapacitated person with respect to the incapacitated person's estate planning and other affairs.

(5) Other Petitions. The provisions of Rule 14.2D. do not preclude the filing of other petitions for special relief. All other petitions shall be electronically filed with the Clerk by the guardian or any interested party.

Probate Section Comment: Section 5521 of the Pennsylvania Probate, Estates and Fiduciaries Code (20 Pa.C.S. § 5521) gives the guardian authority to sell personal property without Court approval. Therefore, for instance, such approval should not be sought for the routine sale of publicly traded securities; however, Court approval may be sought for sales of other types of personal property, such as the alleged incapacitated person's personal effects, household furnishings or closely held stocks.

Rule 14.2E. Practice and Procedure. Modification of Existing Orders and Adjudication of Capacity.

(1) Petition to Modify An Existing Order. A petition to modify an existing order shall include a request for the appropriate modification of the existing order in accordance with the evidence as presented of the incapacitated person's capacity or other change in circumstance.

(2) Petition for Adjudication of Capacity. A petition for adjudication of capacity shall include a request that the incapacitated person be declared no longer incapacitated, that the guardian be directed to file a final report and that such other action as the circumstances may require be approved.

APPENDIX

PHILADELPHIA COUNTY ORPHANS' COURT FORMS

Orphans' Court Division Cover Sheet

Account Filing Checklist – Decedent's Estate

Account Filing Checklist – Trust (Testamentary/Inter Vivos)

Account Filing Checklist – Agent under Power of Attorney

Account Filing Checklist – Guardian of Minor

Account Filing Checklist – Guardian of Incapacitated Person

Account Filing Checklist – Special Needs Trust

Affidavit for Filing in Philadelphia County by Foreign Fiduciary

Appeal from Register of Wills

Excerpt from Schedule of Distribution

Subpoena

Court of Common Pleas of Philadelphia County
Orphans' Court Division

Cover Sheet

FOR COURT USE ONLY	
ASSIGNED TO JUDGE	
CONTROL NO.	
<i>Responding parties must include this number on all filings.</i>	

NAME OF ESTATE	ORPHANS' COURT NUMBER
----------------	-----------------------

TYPE OF ESTATE

Decedent's Estate
 Trust Inter Vivos
 Testamentary Trust
 Incapacitated Person
 Minor
 Principal (Power of Attorney)
 Non-Profit Corporation
 Other (specify)

FILING PARTY'S RELATIONSHIP TO ESTATE

PLEADING OR DOCUMENT FILED

NAME OF FILING PARTY (NOT COUNSEL FOR THE PARTY)	ADDRESS
--	---------

ATTORNEYS MUST CHECK ONE BOX

TO THE CLERK OF ORPHANS' COURT:

Kindly enter my appearance on behalf of
 I have entered my appearance on behalf of

NAME OF FILING ATTORNEY OR PARTY	ADDRESS
PHONE NUMBER	FAX NUMBER

SUPREME COURT IDENTIFICATION NO.	E-MAIL ADDRESS
----------------------------------	----------------

SIGNATURE OF FILING ATTORNEY OR PARTY	DATE
---------------------------------------	------

OTHER PARTIES (Name, address, and telephone number of unrepresented parties or all counsel already of record. If needed, use separate sheet.)

Is notice required? <input type="checkbox"/> No <input type="checkbox"/> Yes. Copy of notice attached to pleading. Date of Notice: _____ <input type="checkbox"/> Yes. All joinders are attached.	If Citation is requested: 1. Was Citation against Respondent previously issued? <input type="checkbox"/> Yes <input type="checkbox"/> No 2. If yes, date of service:	Has another petition been decided in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No Is another petition pending? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the Judge:
---	---	--

FOR COURT USE ONLY - FIRST FILINGS ONLY (If Applicable)			
DATE OF BIRTH	DATE OF DEATH	REGISTER OF WILLS NUMBER	DATE OF DEED OF TRUST

The Filing Party shall complete the information at the bottom of the Cover Sheet filed with the Clerk, and not the service copies. The information will only be used by the Clerk. The Clerk shall not release this information to the general public.

ACCOUNT FILING CHECKLIST • TRUST (TESTAMENTARY/INTER VIVOS)

ESTATE OF _____ <i>, DECEASED/SETTLOR</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
--	-------------------------------	------------------

O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS
--------------------------------	-------------------------

INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in "preparer" column (**YES or N/A**) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in **BOLD**. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.

PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Typed Copy of Trust Instrument	
	7) Copy of Trust Instrument, Certified Correct [Phila. O.C. Rule 2.4B(3)]	
	8) Copy of Original Trust Instrument/Original Letters Testamentary, Certified Correct [Phila. O.C. Rule 2.4B(3)]	
	9) Statement of Method of Notice and Copy of Notice [Pa.O.C.Rule 2.5]	
	10) Notice of Charitable Gift to Attorney General [Pa.O.C.Rule 4.4(a)(13)]	
	11) Petition to Appoint/Request to Waive Guardian/Trustee Ad Litem	
	12) Inheritance Tax Receipts [Phila. O.C. Rule 2.4B(1)(f)]	
	13) Agreement of Compromise and Settlement [Phila O.C. Rule 2.4B(1)(c)]	
	14) Agreement Regarding Accountant's Compensation [Phila O.C. Rule 2.4B(1)(d)]	
	15) Certificate of Appointment of Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(a)]	
	16) Affidavit of Foreign Fiduciary [Phila O.C. Rule 2.4B(8)(b)]	
	17) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	

ACCEPTED

REJECTED

REVIEWED BY _____	DATE _____
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COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION

ACCOUNT FILING CHECKLIST • AGENT UNDER POWER OF ATTORNEY

ESTATE OF _____ _____, POA	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
-----------------------------------	-------------------------------	------------------

O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS
------------------------------------	-------------------------

INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in “preparer” column (**YES or N/A**) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in **BOLD**. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.

PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Power of Attorney or Other Instrument Appointing Agent, Certified Correct [Phila. O.C. Rule 2.4B(7)]	
	7) Statement of Method of Notice and Copy of Notice [Pa. O.C. Rule 2.5]	
	8) If Deceased, Statement of Appointment of Personal Representative	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila. O.C. Rule 2.4B(1)(e)]	

ACCEPTED

REJECTED

REVIEWED BY _____	DATE _____
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ACCOUNT FILING CHECKLIST • GUARDIAN OF MINOR

ESTATE OF _____ _____, <i>MINOR</i>	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
--	-------------------------------	------------------

O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS
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INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in “preparer” column (**YES or N/A**) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in **BOLD**. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.

PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Decree or Instrument Appointing Guardian [Phila. O.C. Rule 2.4B(5)(a)]	
	7) Statement of Method of Notice and Copy of Notice [Pa. O.C. Rule 2.5]	
	8) Statement of Former Minor [Phila. O.C. Rule 2.4B(5)(c)]	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila. O.C. Rule 2.4B(1)(e)]	

ACCEPTED

REJECTED

REVIEWED BY _____	DATE _____
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ACCOUNT FILING CHECKLIST • GUARDIAN OF INCAPACITATED PERSON

ESTATE OF _____, INCAP.	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
-------------------------	-------------------------------	------------------

O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS
-----------------------------	-------------------------

INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in “preparer” column (**YES or N/A**) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in **BOLD**. Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.

PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Decree or Instrument Appointing Guardian [Phila. O.C. Rule 2.4B(6)(a)]	
	7) If Deceased, Statement of Appointment of Personal Representative [Phila. O.C. Rule 2.4B(6)(b)]	
	8) Statement of Method of Notice and Copy of Notice [Pa. O.C. Rule 2.5]	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(8)(b)]	
	13) Income Accounting Waivers [Phila O.C. Rule 2.4B(1)(e)]	

<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____
--	-------------------	------------

**AFFIDAVIT FOR FILING IN PHILADELPHIA COUNTY
BY FOREIGN FIDUCIARY**

Commonwealth of Pennsylvania }
 } ss.
 County of _____ }

being duly {sworn } depose and say as follows:
 {affirmed}

I am {Executor }
 {Administrator }
 {Administrator c.t.a. } in the Estate of _____
 We are {Trustee }
 {Guardian }

who was adjudicated incompetent

who died _____ a resident of _____
 (Date) (City)

 (County) (State)

That deponent desires to exercise within the Commonwealth of Pennsylvania the authority vested in deponent by virtue of an Act of Assembly of the Commonwealth of Pennsylvania, known as the Probate, Estate and Fiduciaries Code of 1972, P.L. 164, Sec. 4101 (1) and (2), and has complied with all the provisions of same.

That after diligent search and inquiry, deponent states that so far as deponent has been able to discover, the above ward / decedent is not indebted to any person in the Commonwealth of Pennsylvania; and that deponent will not exercise any power which _____ would not be permitted to exercise in the jurisdiction of _____ appointment.

Sworn	}	}	
	}	}	
Affirmed	}	}	(Signature)
	}	}	
me this _____ day of _____	}	}	(Address)
	}	}	
A.D. 20_____.	}	}	(Signature)
	}	}	
_____	}	}	
(Signature and seal of Notary or other official	}	}	
	}	}	
qualified to administer oaths	}	}	(Address)
	}	}	
Show date of expiration of Notary's commission)	}	}	(If corporation affix corporation seal)
	}	}	

DO NOT FILE THIS AFFIDAVIT UNTIL AFTER ONE MONTH FROM DECEDENT'S DEATH.
 AN EXEMPLIFIED COPY OF PROBATE PROCEEDINGS MUST ACCOMPANY THIS FORM.

COMMONWEALTH OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

ORPHANS' COURT DIVISION

APPEAL FROM REGISTER OF WILLS

Will No. _____ of _____
Adm. No. _____ of _____
Misc. No. _____ of _____

ESTATE OF: _____, _____

O.C. NO. _____ OF _____

TO THE REGISTER OF WILLS OF PHILADELPHIA COUNTY:

The undersigned, a party in interest, appeals to the ORPHANS' COURT of said County from the decision of the REGISTER OF WILLS in the Estate:

Check one

- Admitting to Probate a certain writing, dated the ____ day of _____, _____ as the last will of said decedent, and granting letters testamentary thereon.
- Granting letters of administration to _____.
- With respect to the Inheritance Tax Assessment.

Appellant's Signature

Print Appellant's Name, Address & E-Mail Address

Attorney: _____ I.D. No. _____

Address: _____ Phone No. _____

E-Mail Address: _____

Date Filed: _____

COMMONWEALTH OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

ORPHANS' COURT DIVISION

EXCERPT FROM SCHEDULE OF DISTRIBUTION

Estate of _____ No. _____ of 20 _____, Deceased.
Schedule of Distribution approved _____, 20_____
Award of Real Estate under Adjudication of _____, J.,
dated _____, 20_____, sur the _____ account
of _____
Executor-Administrator-Trustee

To _____
his, her, their, its, heirs, administrators, successors and assigns.

Premises No. _____ Street,
at an award value of _____ \$

described as follows:

All that Certain:

Subject To

The Decedent Acquired Title Thereto as Follows:

Commonwealth of Pennsylvania
Court of Common Pleas of Philadelphia County
Orphans' Court Division

No. _____ of _____

Estate of _____

Subpoena

To: _____
(Name of Witness)

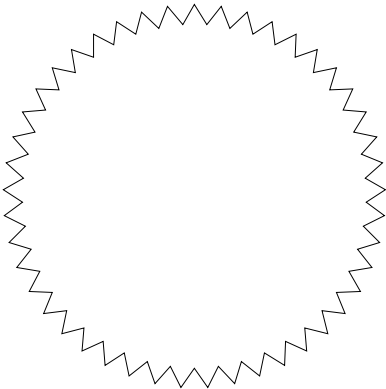
(Address)

1. You Are Ordered by the Court to come to _____, at Philadelphia, Pennsylvania, on _____, at _____ o'clock _____.M., to testify on behalf of _____ in the above case, and to remain until excused.

2. And bring with you the following:

NOTICE

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.



WITNESS my hand and seal of said Court, this _____ day of _____, A.D. 2_____.

FOR THE COURT:

Asst. Clerk of Orphans' Court Division

Inquiries Concerning This Subpoena Should Be Addressed To:

(Attorney Name and I.D. No.)

Address: _____

Telephone No.: _____

Fax No.: _____

E-mail Address: _____

Return of Service

On the _____ day of _____, 20____,
I, _____, served with the foregoing subpoena by (de-
scribe method of service):

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.

Date

Signature

Name of Person Served

Orphans' Court Forms

New Orphans' Court Forms effective Sept. 1, 2016. (If you are filing prior to Sept. 1, 2016, please do not use the forms in this table.)

OC 01 - Petition for Adjudication - Decedent's Estate Eff 09 01 16

OC 02 - Petition for Adjudication - Trust Estate Eff 09 01 16

OC 03 - Petition for Adjudication - Guardianship of Incapacitated Person Eff 09 01 16

OC 04 - Petition for Adjudication - Guardianship of Minor Eff 09 01 16

OC 05 - Petition for Adjudication - Principal's Estate (Under Power of Attorney) Eff 09 01 16

OC 06 - Notice of Charitable Gift (In Accordance with Pa. O.C. Rule 4.4) Eff 09 01 16

RW 06 Renunciation Eff 09 01 16

RW 07 - Notice of Estate Administration Pursuant To Pa. O.C. Rule 10.5 Eff 09 01 16

RW 08 - Certification of Notice Under Pa. O.C. Rule 10.5 Eff 09 01 16

RW 09 - Inventory Eff 9 1 16

RW-10 - Pa. O.C. Rule 6.12 Status Report

Audit and Administration

OC-06 - Notice of Charitable Gift (In Accordance with Pa. O.C. Rule 5.5)

OC-07 - Notice of Claim (Filed Pursuant to 20 Pa. C.S. § 3532)

OC-01 - Petition for Adjudication - Decedent's Estate

OC-03 - Petition for Adjudication - Guardian of Estate of Incapacitated Person

OC-04 - Petition for Adjudication - Guardian of Estate of Minor

OC-05 - Petition for Adjudication - Principal's Estate (Under Power of Attorney)

OC-02 - Petition for Adjudication - Trust

Guardianship

G-01 - Important Notice: Citation with Notice (Pa. O.C. Rule 14.5)

G-02 - Annual Report - Guardian of Estate

G-03 - Annual Report - Guardian of Person

G-04 - Guardian's Inventory

OC-03 - Petition for Adjudication - Guardian of Estate of Incapacitated Person

OC-04 - Petition for Adjudication - Guardian of Estate of Minor

Abortion Control Act

ACA-01 - Minor's Application for Judicial Authorization of an Abortion (Pa. O.C. Rule 16.10)

ACA-02 - Confidential Unsworn Verification by a Minor (Pa. O.C. Rule 16.10)

Register of Wills

RW-01 - Estate Information Sheet

RW-02 - Petition for Grant of Letters

RW-03 - Oath of Subscribing Witness(es)

RW-04 - Oath of Non-subscribing Witness(es)

RW-05 - Oath of Witness(es) to Will Executed by Mark

RW-06 - Renunciation

RW-07 - Pa. O.C. Rule 5.6 Notice

RW-08 - Certification of Notice under Pa. O.C. Rule 5.6(a)

RW-09 - Estate Inventory

RW-10 - Pa. O.C. Rule 6.12 Status Report

Model Forms of Account

National Fiduciary Accounting Standards Project - 1983 Report of Fiduciary Accounting Standards Committee

Model Estate Account

Model Trust Account

Model Charitable Remainder Unitrust Account

Foreign Adoption Forms

Petition to Register Foreign Adoption Decree

Final Decree Granted

Final Decree Denied

Filing Instructions

Preliminary Decree

Final Decree

Petition for Adoption of a Foreign Born Child

Report of the Intermediary

Verification of Translator

Certifications for County Agencies of Orphans' Court Proceedings

Notice of Orphans Court Appeal Decision

Notice of Orphans Court Appeal Filing

Notice of Orphans Court Petition Filing

Notice of Orphans Court Order

CONTACT

Please direct any comments, concerns, or suggestions about the forms to rulescommittees@pacourts.us.
