

JUDGES AND LOCAL RULES

RULE 1.2A LOCAL RULES. RULES COMMITTEE.

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

RULE 1.2B FILING, INDEXING AND TRANSMITTAL.

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

RULE 1.2C PETITIONS AND MOTIONS.

- (a) Every original petition or motion filed shall set forth in its first paragraph the citation of any statute, rule of court, or other authority relied upon to justify the relief requested.
- (b) Every petition or motion filed shall state with particularity the grounds on which it is based and shall be accompanied by a proposed order which, if approved by the Court, would grant the relief sought by the pleading. Every response in opposition to a

motion or petition shall be accompanied by a proposed order which, if approved by the Court, would deny or amend the relief sought by the pleading.

(c) The Court may direct that a Rule or Citation be issued, or may schedule a hearing or conference as the issues in the case may dictate.

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

RULE 1.2D BRIEFS AND ARGUMENT.

(a) The Court after conference or hearing or in lieu thereof, and whether requested by an interested party or on its own motion, may direct disposition of the issues upon briefs.

(b) Any party or his attorney may request oral argument upon a motion or issue involved in any controverted proceeding and the Court shall have the right to require oral argument.

(c) Unless oral argument is requested or specifically directed, the Court will decide the issues on briefs as submitted per briefing schedule set by the Court.

RULE 1.2E PROCEDURE WHERE BRIEFS ARE FILED. CONTENTS OF BRIEFS.

When a matter is directed for disposition on briefs, the attorney for the moving party, following a briefing schedule set by the Court, shall furnish the Court with a typewritten brief containing:

(a)(1) an index; (2) a history of the case; (3) a statement of the questions involved; (4) a statement of the facts of the case; (5) a copy of the exceptions, if any; (6) in cases begun by petition, copies of the pertinent docket entries and of the pleadings; (7) a copy of the will and codicils or trust instrument and any other documents the construction of which is involved; (8) a brief of argument; and (9) a certificate of service per (c) of this rule.

(b) The brief of the respondent may contain a counter-statement of the questions involved, a counter-statement of the facts of the case, and shall contain a brief of argument.

(c) Copies of briefs shall be delivered to counsel of record for opposing parties at the same time a copy is delivered to the Court.

RULE 1.2F WITNESSES.

Unless the exigencies of the case require it, an attachment will not be issued to compel the appearance of a witness unless the witness shall have been served with a subpoena at least three days before the day fixed for hearing.

RULE 1.2G ATTORNEYS.

(a) *Agreements.* The Pennsylvania Supreme Court Rules of Civil Procedure relating to the Business of the Courts shall govern in agreements of attorneys relating to the business of the Court and to contingent fees, and to the regulation of fees for services and promises to pay for services.

(b) *As witnesses.* Members of the Bar should not appear as sole counsel in matters in which they expect to be called as witnesses.

(c) *Attorney of Record.* Every attorney, when employed by any party in any proceeding pending in this Court, shall have his name and Supreme Court identification number marked on the initial pleading or paper filed in the office of the Clerk. So long as the name of the attorney remains in the record, he shall be considered as the attorney for the party for whom his appearance is entered and shall be served with all required notices and pleadings. Any attorney whose client has an interest in the proceeding may, by praecipe, enter an appearance as of record. Any attorney who has properly entered an appearance will receive notice of all hearings, conferences, and orders.

RULE 1.2H RECORD PAPERS. REPRODUCTION OF PAPERS.

(a)(1) *Record Papers.* The record papers in the office of the Clerk shall be in the custody of said official, who shall be responsible for their safekeeping. No person, other than the Clerk, or his duly authorized clerks shall have access to the files in which such record papers are kept.

(2) No one is authorized to remove records from the office of the Clerk. It is the duty of the Clerk to insure full compliance with this rule.

(3) The record papers in any proceeding may be examined and copied by any party in interest in the office of the Clerk. While the record papers in any case may be photocopied, the file copy of testimony may not be photocopied.

RULE 1.2I COSTS.

When not otherwise regulated by law, the Court will allocate costs in such manner as it deems equitable.

RULE 1.2J DEPOSITORY OF THE COURT.

(a) *Deposit of Money or Securities in Court.* All monies paid or securities delivered into Court shall be deposited immediately in such bank or trust company as the Clerk may designate, to the credit of the court, in the particular estate or proceeding to which the money or securities may belong; and such depository shall keep a separate account of each payment and delivery, designating the same by name of the estate or proceeding.

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

(c) *Docket to be maintained.* The Clerk shall maintain in his office a Money in Court Docket in which shall be entered concisely under the name of the respective estates, the Orders of Court directing money to be paid into Court, as well as an accurate account of the money paid in and paid out, so that the record will fully explain itself.

RULE 1.2K DECREES. SATISFACTION AND ENFORCEMENT.

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

(b) *Order to Enforce Decree or Adjudication.* Any party in interest may petition the Court for an Order to enforce compliance with the provisions of a decree or an adjudication.

RULE 1.2L BONDS AND SURETIES.

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

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

(c) *Individuals as Sureties.* All bonds presented for approval, except those having proper corporate surety, shall be accompanied by an affidavit of each person offered as surety, setting forth: (1) his name and residence, and (2) that he is the owner in his individual right in fee simple of real estate located in Schuylkill County having a fair net value, after deducting all liens and encumbrances, in excess of the face amount of the bond upon which he is a surety.

(d) *Bond Without Surety.* The Court in its discretion may permit a party in interest to execute his individual bond, without surety. When a party in interest is authorized to execute his individual bond, the Court may direct that the bond to be executed contain a warrant of attorney to confess judgment, with or without default, and that judgment thereon be entered of record in the office of the Prothonotary.

RULE 1.2M INDIVIDUAL FIDUCIARIES. ASSETS AND INVESTMENTS.

(a) *Segregation.* Assets held by individual fiduciaries subject to the jurisdiction of the Court shall be kept separate and apart from their individual assets and, except where otherwise permitted by Act of Assembly, shall be held in the name of the fiduciary as such.

(b) *Deposit of Uninvested Funds.* All funds held uninvested shall be deposited in a bank or banks, or trust company or trust companies, the deposits of which are insured by the Federal Deposit Insurance Corporation.

CONSTRUCTION AND APPLICATION OF RULES

RULE 2.3A DEFINITIONS.

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

(b) As used in these rules "Clerk" shall mean a reference to the Clerk of the Orphans' Court - Register of Wills.

RULE 2.4A THE BUSINESS OF THE COURT.

(a) *Calendar.* Prior to the close of each calendar year, the Court shall prepare, publish, and make available for distribution, a calendar setting forth the days upon which various matters will be regularly heard during the ensuing year. In the event of a variance or conflict between the contents of such a published calendar and the provisions of these rules, the former shall supersede the latter.

RULE 2.4B SUBMISSION FOR AUDIT.

(a) New accounts shall be submitted for audit on the first Wednesday of each month, as advertised pursuant to Sch. Co. O.C. Rule 6.6A.

RULE 2.4C RETURN DAYS.

Return days, i.e. the days to which citations, rules or other processes are returnable, shall, subject to the provision of §764 of the P.E.F. Code and except as otherwise provided, be as fixed by local rule or special order of Court. No hearing shall be held on the return day of a citation or rule unless specially ordered by the Court. (See Pa. O.C. Rule 3.2.)

RULE 2.4D PRAECIPE TO TRANSMIT.

All filings which require action by a judge or an assignment by the Court Administrator shall be accompanied by a praecipe to transmit on the Clerk's form "Praecipe to Transmit" and shall indicate the nature of the filing and what action is being sought to move the matter forward. The purpose of the praecipe is to advise the Court of what may be necessary for a disposition (i.e. when a hearing is required; when a matter is ripe for disposition on the record; matters that can be immediately addressed) and to expedite action on the filing. When a non-jury trial or a hearing involving witnesses is being requested, then the moving party shall list the witnesses to be presented and include an estimate as to the time required to present the case. In matters requiring a non-jury trial or hearing, opposing counsel is required to file a report in WRITING with the Clerk within 10 days of the moving party's filing of the praecipe to transmit, (1) listing the names of the witnesses they will use at trial or hearing; and (2) an estimate of time required to present their case. Failure to file the praecipe to transmit or to indicate what action is required from the Court may result in denial of the relief sought. Failure to list witnesses may result in the preclusion of their testimony.

PLEADINGS AND PRACTICE

RULE 3.2A PLEADINGS, SIGNATURE AND VERIFICATION.

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

(c) A copy of every pleading, including exceptions, shall be promptly served upon counsel of record for all parties in interest.

RULE 3.4A FORM. EXHIBITS.

(a) *Typing and Endorsements.* Every pleading shall be endorsed with the name of counsel and where practical typewritten and double spaced.

(b)(1) There shall be attached to all petitions as exhibits the originals or copies of all wills, codicils, agreements, and other written instruments relied upon. If the petitioner is unable to attach a necessary exhibit, he shall so state in his petition together with the reason.

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

RULE 3.4B CONSENTS. JOINDERS. FORM.

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

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

I, _____, having read and considered the contents of the foregoing petition, do herewith waive the benefit of all requirements of notice of the presentation, or service upon me, of said petition, do authorize the Court to note my general appearance in said proceeding as though I had appeared personally or by counsel, do herewith waive all objections to the Court's jurisdiction over my person, and do herewith consent to or join in [add specifics of prayer for relief]

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

RULE 3.5A CITATION. PROOF OF SERVICE.

(a)(1) *Personal Service.* Proof of personal service of a citation shall conform to the provisions of §766 of the P.E.F. Code. The return shall set forth the date, time, place and manner of service and that true copies of the citation, petition, and preliminary order awarding the citation were handed to the respondent.

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

(3) *Service by Publication.* Proof of service of a citation by publication shall consist of proofs of publication together with affidavits by the publisher.

(b) Except as otherwise provided, a return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event of which notice has been given.

**RULE 3.6A GUARDIANS OR TRUSTEES AD LITEM.
APPOINTMENT.**

Guardians or trustees ad litem may be appointed to represent the interests of any prospective parties in interest who are not sui juris or who are absentees and for whom no guardian or trustee has previously been appointed. Such appointments may be made upon the presentation of the petition to the Court or at any time during the course of the proceeding when the Court deems such action necessary.

RULE 3.7 PRE-HEARING CONFERENCE.

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

NOTICE

RULE 5.1A NOTICE. LEGAL PUBLICATION.

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

RULE 5.1B SERVICE ON ATTORNEYS.

Written notice served personally on an attorney of record or on a partner or employee of his office, or by mail addressed to his office, shall be notice to the party whom he represents, except where personal service on the party is specifically required.

**RULE 5.2A METHOD. PERSON UNDER INCAPACITY.
NO GUARDIAN OR TRUSTEE.**

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

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

RULE 5.4A NOTICE. ADDITIONAL REQUIREMENTS.

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

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

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

(b) Except as otherwise provided, a return of notice shall be filed with the Clerk on or before the date set for the occurrence of the event of which notice has been given.

ACCOUNTS AND DISTRIBUTION

RULE 6.1A ACCOUNTS. FORM. ADDITIONAL REQUIREMENTS.

(a)(1) All accounts shall be in the form approved by the Pennsylvania Supreme Court and known as Uniform Fiduciary Accounting Standards. Should the account filed fail to comply with said accounting standards, the Clerk shall notify the Accountant to immediately comply prior to thirty (30) days before Audit Submission Day. The corrected account shall be given to all parties in interest. A failure to correct the account shall result in the account being stricken.

(2) Accounts shall be stated on 8½" by 11" paper, fastened together at the top and numbered consecutively at the bottom.

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

**RULE 6.3A NOTICE. RETURN. FAILURE TO GIVE.
PENALTY.**

(a) An accountant shall serve written notice of the filing of an account upon each claimant and party in interest by first-class mail, at least thirty (30) days prior to the date for submission of accounts to the Court for adjudication and confirmation.

(1) A copy of the Account and Statement of Proposed Distribution shall be attached to any notice to a party in interest. For the purposes of this rule, "Party in Interest" is defined as follows:

- (i) when decedent dies intestate, as all intestate heirs;
- (ii) when decedent dies testate, as all residuary legatees.

(2) Every notice to a claimant shall contain the date for submission to the Court and shall advise whether the claim, interest, or obligation of the person notified is admitted or denied; whether it will be paid in full or in part, and, if not paid in full what amount if any will be paid. The notice shall advise that an objection to such unpaid claim must be filed with the Clerk prior to the date for submission to the Court and that the Account and Statement of Proposed Distribution are available for examination at the office of the Register of Wills.

(b) On or before the date for submission to the Court of the account for adjudication and confirmation, the accountant, or his counsel, shall file with the Court a return of notice and certification as prescribed in Rule 6.9A(b) hereof.

(c) Failure by the accountant or his counsel to give all required notices and to file returns thereof in accordance with this rule shall result in the Court denying confirmation of the account until all of the provisions of all of the aforementioned rules have been satisfied.

(d) The form of notice shall be in substantially the following form:

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

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

NOTICE

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

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

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

A copy of the Account and Statement of Proposed Distribution is attached hereto; and if not attached, it is available for your examination at the Register of Wills office, Schuylkill County Courthouse.

**RULE 6.4A ACCOUNTS. TIME FOR FILING.
CONFIRMATION.**

(a) Accounts to appear on a particular confirmation list must be filed not later than 4 P.M. of the fifth Wednesday immediately preceding the Wednesday on which it is desired the account shall be submitted to the Court for adjudication and confirmation.

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

**RULE 6.6A ADVERTISEMENTS OF ACCOUNTS. FORM
OF ADVERTISEMENTS.**

(a)(1) *Advertisement of Account.* The Clerk shall give notice of all accounts filed and of the date of submission to the Court for adjudication and confirmation. The notice shall be published once a week during two (2) consecutive weeks immediately before the day on which the Accounts, with accompanying Statement of Proposed Distribution, shall be presented for adjudication and confirmation in the legal publication designated by these rules and in one daily newspaper of general circulation published within Schuylkill County, and the Clerk shall also post copies of the confirmation list in his office.

(2) *Form of Advertisement.* The form of advertisement of Accounts and Statements of Proposed Distribution that have been filed for adjudication and confirmation and adjudication by the Court shall be as follows:

NOTICE OF CONFIRMATION OF FIDUCIARIES' ACCOUNTS

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

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

Estate	Fiduciary	Attorney
x	x	x

Clerk of the Orphans' Court

RULE 6.9A ACCOUNTS. STATEMENTS OF PROPOSED DISTRIBUTION. SUBMISSION CERTIFICATION.

(a)(1) A Statement of Proposed Distribution, signed by each accountant and verified by at least one of them, shall be filed with each Account at the same time the Account is filed, except in Accounts of Guardians of the Estates of Minors and Settlement of Small Estates (See Sch. Co. O.C. Rule 6.9C).

(2) Except by special leave of Court, printed forms of the Statement of Proposed Distribution provided by the Clerk or a substantially similar form shall be used.

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

(1) A statement of additional items of debit and credit not appearing in the account;

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

(3) A return of service of notice to all claimants and parties in interest in accordance with Rule 6.3A.

RULE 6.9B ACCOUNTS. PAPERS TO BE SUBMITTED.

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

(1) Orphans' Court Account Checklist executed by counsel of record;

(2) Copies of all agreements with respect to settlements and compromises;

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

(b) *Accounts of Personal Representatives.* Counsel for personal representatives shall also attach:

- (1) the original proofs of advertisement of grant of letters;
- (2) a copy of letters, inventory, and inheritance tax appraisal;
- (3) a copy of the Will and codicils;
- (4) the official receipt for any inheritance tax paid;
- (5) the official receipt for any federal estate tax paid; and
- (6) a Statement of Proposed Distribution.

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

- (1) a copy of the letters, and of the will and codicils, if any, creating the testamentary trust, or a copy of the trust instrument and any amendments thereto, creating the inter vivos trust;
- (2) a waiver of an income accounting executed by all of the income beneficiaries, if the account does not contain a complete income accounting;
- (3) the official receipt for any inheritance tax paid during the period of the accounting;
- (4) the official receipt for any federal estate tax paid during the period of the accounting; and
- (5) a Statement of Proposed Distribution.

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

- (1) a copy of the appointment of the guardian or of the Will or other instrument by which the guardian was appointed;
- (2) where the former minor has attained the age of eighteen (18) years, his written stipulation setting forth that he attained the age of eighteen (18) years on a certain designated date; that he has examined the account and has found it correct; and that he has received the balance or balances shown in the account and requests that the guardian be discharged;

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

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

(e) *Accounts of Guardians of Estates of Incapacitated Persons.* Counsel for a Guardian of the Estate of an Incapacitated Person shall also submit:

- (1) a copy of the appointment of the guardian;
- (2) a copy of the original inventory filed; and
- (3) a Statement of Proposed Distribution.

RULE 6.9C SUBMISSION TO THE COURT.

The Clerk on the first Wednesday of each month shall transmit to the Court all accounts which have been filed and duly advertised for submission to the Court on that date. The Clerk shall also on that date deliver to the Court a list of all accounts to which any objections have been filed. The Court shall audit those accounts and may then confirm the account finally, order a hearing, or enter any adjudication, decree, order or award directing distribution as law and justice may require.

RULE 6.10A OBJECTIONS. FORM AND CONTENT.

(a) Objections to an account, inventory, and statement of proposed distribution shall be in writing; shall be numbered consecutively; shall be signed by the objector or his attorney; and where they contain allegations of fact, shall be properly verified in the same manner as a petition.

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

RULE 6.10B OBJECTIONS. TIME FOR FILING.

(a) Written objections to an account, inventory, and statement of proposed distribution may be filed as of course with the Clerk at any time prior to the date for submission of accounts to the Court for adjudication and confirmation.

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

RULE 6.10C OBJECTIONS. SERVICE. RETURN.

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

RULE 6.10D OBJECTIONS. DISPOSITION.

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

RULE 6.10E OBJECTIONS. FAILURE TO MAKE. EFFECT.

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

RULE 6.11A ADJUDICATION AND DECREE OF DISTRIBUTION. SERVICE. METHOD. PROOF.

(a)(1) *In General.* Decrees of distribution shall be entered and filed with the adjudication of an account except where the facts warrant the filing of the decree separately and on a later date. Unless written exceptions are filed within ten (10) days from the date of mailing set forth in the Clerk's Affidavit of Service, the decree of distribution shall become FINAL.

(b) The Clerk shall immediately serve, or cause to be served, by first class United States mail, a true copy of the adjudication and order upon --

- (1) Each attorney of record;
- (2) Each claimant, whether claiming as a creditor or as an heir, or legatee, who appeared at the audit in *personam* and without counsel and whose claim has been denied in full or in part; and
- (3) Such other parties as the Court may direct.

(c) Immediately upon effecting service of the Court's adjudication and order as provided in (b) hereof, the Clerk shall file of record proof of such service and shall provide a copy of the same to Accountant and his counsel.

RULE 6.11B DECREE OF DISTRIBUTION P.E.F. §3534

Real property. Distribution under Section 3534 of the P.E.F. Code, where at the time of distribution of the estate the personal representative or a distributee requests the Court to divide, partition, and allot the real estate or to direct a sale thereof, an interlocutory decree shall be entered fixing a day certain, not less than twenty (20) days from the date of the interlocutory decree, for hearing; the interlocutory decree to be entered shall be in the form of a notice to all parties in interest that on the day so fixed for hearing the Court will hear the contentions of the parties in interest with respect to:

- (a) whether the real estate can be divided among less than all of the parties in interest without prejudice to or spoiling the whole and if so, how; and
- (b) whether the Court should direct the personal representative to sell at a sale confined to the distributees or at a private or public sale not so confined.

A copy of the interlocutory decree, duly certified, shall be served by certified or registered mail, by the personal representative, upon all parties in interest, not less than ten (10) days before the return day fixed in the decree; proof of service of notice, in the form of return receipts, to be filed upon the return day.

**RULE 6.11C SETTLEMENT OF SMALL ESTATES.
CONTENTS OF PETITION.**

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

- (1) the name, date of death, and residence of the decedent;
- (2) the name and address of the petitioner and his relationship to the decedent;
- (3) if the petitioner is the surviving spouse, the date and place of marriage to the decedent;
- (4) whether the decedent died testate or intestate;
- (5) the names, relationship, and interest of all persons entitled to share in the decedent's estate under the Will or intestate laws, stating who are minors, incapacitated persons, or decedents, with the names of their fiduciaries, if any, and whether any of them received or retained any property of the decedent by payment of wages, salary or any accrued pension under Section 3101 of the P.E.F. Code or otherwise;
- (6) where a claim for family exemption is included, a statement that claimant formed a part of the decedent's household at the date of his death and, if the claimant is the surviving spouse, that he has not forfeited his right to the family exemption;
- (7) an itemized statement of the gross personal estate to be distributed and the fair value of each item other than cash, such value to be that given in the inventory filed, and if none was filed, then the fair value, if not readily ascertainable, shall be fixed by two appraisers whose affidavits of value shall be attached to the petition;
- (8) the disbursements made prior to the filing of the petition; the date and name of the person to whom paid; and the nature and amount of each payment;
- (9) the names of all unpaid claimants of whom the petitioner has notice, the nature and amount of each claim, and whether such claims are admitted;

(10) that a schedule of assets and deductions for inheritance tax purposes has been filed with the Register of Wills; the amount of any inheritance tax assessed, and the date of payment thereof;

(11) a statement that ten (10) 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 statement of distribution of the property, setting forth the persons entitled and their distributive shares and requesting the discharge of the personal representative if letters have been granted.

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

- (1) a copy of the decedent's Will;
- (2) the consents of unpaid beneficiaries, heirs, and claimants;
- (3) a copy of the inventory, if one was filed;
- (4) a copy of the notice given; and
- (5) the inheritance tax voucher, or in lieu thereof a statement from the inheritance tax department that no tax is due.

EXCEPTIONS

RULE 7.1A EXCEPTIONS. FORM AND CONTENTS.

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

(b)(1) Exceptions to findings of fact and conclusions of law contained in adjudications, orders and decrees shall be in writing, shall be numbered consecutively, and shall be signed by the exceptant or his attorney.

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

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

(4) Exceptions shall not contain averments of fact.

RULE 7.1B EXCEPTIONS. TIME FOR FILING. BRIEF.

Except as otherwise provided, exceptions, with a brief in support thereof, shall be filed as of course with the Clerk within twenty (20) days from service of a copy of the adjudication, order, or decree complained of, and a true and correct copy of the exceptions and brief served upon all parties in interest, or their counsel of record, who shall have ten (10) days to respond. Proof of service as aforesaid shall be filed with the Clerk prior to any disposition of the exceptions.

RULE 7.1C EXCEPTIONS. PARTIAL DISTRIBUTION.

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

AUDITORS AND MASTERS

RULE 8.1A APPOINTMENT. FEES AND COSTS.

- (a) The Court, on its own motion, or upon petition of the accountant, or of any other party in interest, may appoint an Auditor or Master to assist the Court in the audit of an account or the disposition of an issue of fact in a matter.
- (b) The Court may, at or after a conference on the issues or in lieu thereof, direct that each counsel of record and any party in interest not represented by counsel shall file with the Clerk a praecipe listing Witnesses and the anticipated length of the Master's or Auditor's hearing.
- (c) Each party in interest shall deposit into the Clerk of the Orphans' Court a payment on account of fees and costs in an amount to be fixed by the Court. Failure to deposit said funds as ordered may result in a dismissal of the issues or imposition of appropriate sanctions.

RULE 8.1B NOTICE OF HEARING. HEARINGS.

- (a) The Clerk shall give written notice of an Auditor's or Master's appointment and give ten (10) days prior written notice of the time and place of the first hearing to all counsel of record and all interested parties not represented by counsel known to the Clerk.
- (b) Notice of succeeding hearings, if any, given by the Auditor or Master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.
- (c) The hearing shall be held at a time and place indicated and not later than forty-five (45) days after the Auditor's or Master's appointment and shall be extended only upon application to the Court for good cause shown.

RULE 8.2A FILING OF REPORT. PLACE. TIME.

- (a) The report of an Auditor or Master who has been appointed to assist the Court in the audit of an account or the disposition of an issue of fact in a matter shall be filed with the Clerk.
- (b) The report of the Auditor or Master shall be filed within ninety (90) days after completion of the hearing(s) and shall be extended only upon application to the Court for good cause shown.

RULE 8.5A TRANSCRIPT OF TESTIMONY.

- (a) Testimony given at an Auditor's or Master's hearing shall be stenographically recorded.
- (b) The transcript of testimony taken before an Auditor or Master shall be filed with his report.
- (c) The Auditor or Master shall, in the first instance, pass on questions of evidence. If he is of the opinion that the testimony is clearly frivolous and irrelevant, or that the witness is clearly incompetent, he need not take the testimony, but the Record shall show the offer and the purpose of it, the objection and the ground of it, as well as the decision of the Auditor or Master, so that if objection be taken to the Report of the Auditor or Master on this ground his decision may be properly reviewed by the Court. However, if the Auditor or Master is in doubt, the testimony shall be taken subject to exception and the question may be raised upon exception to his Report.
- (d) Fees may be taxed as costs and the Auditor or Master shall have authority to recommend to the Court that the stenographer's fees follow the award as costs in appropriate cases.

RULE 8.6A NOTICE OF INTENTION TO FILE. PROOF OF NOTICE.

(a) An Auditor or Master shall give ten (10) days notice in writing to all parties in interest or their counsel of record of his intention to file his report with the Clerk on a day certain and shall file proof of the giving of notice with the Clerk. A copy of said report together with the proposed Decree of Confirmation Nisi shall accompany the notice to each party in interest or their counsel of record. A copy thereof together with the transcript of testimony shall be made available in the office of the Clerk for inspection during the notice period.

(b) The Auditor or Master shall file his original Report and proposed Decree with the Clerk upon expiration of the ten (10) day notice period.

RULE 8.7A REPORT OF AUDITOR OR MASTER. DISPOSITION. PROCEDURE.

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

(b) *Exceptions.* Any party in interest shall have the right to file exceptions to the report of an Auditor or Master within twenty (20) days after the filing and confirmation Nisi thereof. Exceptions shall conform to the pertinent provisions of Chapter 7 of these rules.

(c) *Re-Examination by Auditor or Master.* In the event that exceptions are filed, the Auditor or Master shall have a period of twenty (20) days to re-examine the subject of the exceptions and shall file a supplemental report disposing of the exceptions seriatim, setting forth his reason or reasons for sustaining or dismissing each exception.

(d) Written notice of the filing of the supplemental report shall be given by the Auditor or Master to all parties in interest or

their counsel and proof of such notice shall be filed with the Clerk.

(e) The supplemental report shall become absolute upon filing with the Clerk, unless written exceptions thereto are filed within ten (10) days after the date of filing the supplemental report. Such exceptions shall be disposed of as are exceptions to an adjudication of the Court.

RULE 8.8A COMPENSATION AND SECURITY.

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

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

(c) A motion to the Court to require security for payment of fees and expenses may be filed with the Clerk at any time by the Auditor or Master, Accountant, or any party in interest.

OFFICIAL EXAMINERS

RULE 9.1A OFFICIAL EXAMINERS.

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

RULE 9.1B OFFICIAL EXAMINERS. COMPENSATION.

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

REGISTER OF WILLS

RULE 10.1A FORM OF APPEAL FROM REGISTER OF WILLS' DECISION.

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

- (1) the nature of the proceedings before the Register of Wills;
- (2) the reasons for the appeal;
- (3) the names and addresses of all parties in interest, including those who have not been made parties to the record; and
- (4) a request that a Citation 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 and reversed.

Upon the issuance of the Citation, the Register of Wills shall certify the record.

RULE 10.2A INHERITANCE TAX APPEALS.

Practice and procedure in inheritance tax appeals shall be in accordance with the Inheritance and Estate Tax Act, 71 P.S. §9101 et seq.

SPECIAL PETITIONS

RULE 12.1A FAMILY EXEMPTION. APPRAISAL.

- (a) Where the exemption is claimed from personal property included in the inventory filed, the value of each item so claimed shall be that given in the inventory filed.
- (b) Where the exemption is claimed from personal property forming part of a Small Estate and no inventory has been filed, the value of each item claimed shall be the fair value thereof.
- (c) Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed;
 - (1) in money;
 - (2) from personal property and the gross value of the estate does not exceed the amount of the exemption;
 - (3) in real or personal property at valuations agreed upon by all parties in interest.

RULE 12.1B FAMILY EXEMPTION. ALLOWANCE.

- (a) *Prior to Audit.*
 - (1) *Personal Property.* If the petitioner requests the exemption prior to Audit, the petitioner shall file a petition with the Clerk and thereupon shall give ten (10) days written notice of intention to request the exemption on a stated Citation Returnable date to the personal representative, if any, and to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of any objection, on presentation of a verified return of notice on the stated citation returnable date, an appropriate decree may be entered. Where all parties adversely affected have joined in the prayer of the petition and ten days prior notice of the filing of the petition has been given to the personal representative, if any, the petitioner may present the petition to the Court on a citation returnable date, whereupon, in the absence of objections and on presentation of a

verified return of notice upon the personal representative, an appropriate decree may be entered.

(2) *Real Property*. If the Petitioner requests the exemption prior to the Audit, the appraisers shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed, and written notice of such filing shall be given to the personal representative and to the next of kin, or, if there be neither personal representative nor next of kin, to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate to the petitioner will be requested and may be allowed by the Court at a stated Citation Returnable date, of which not less than ten (10) days notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court may direct.

(b) *At Audit*. The petition for Family Exemption may be filed with the Clerk at any time prior to the Audit in order that the demand may be a matter of record 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 he shall direct.

RULE 12.1C FAMILY EXEMPTION. RISK DISTRIBUTION PRIOR TO AUDIT.

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

**RULE 12.2A ALLOWANCE TO SURVIVING SPOUSE OF
INTESTATE. APPRAISAL.**

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

**RULE 12.3A ELECTION OF SURVIVING SPOUSE. FILING
OF PETITION FOR EXTENSION OF TIME.**

(a)(1) A petition for the extension of time in which the surviving spouse may file an Election to Take Against the Will shall include the requirements for a petition under Pa. O.C. Rule 12.3(a) and the facts relied upon to justify an extension of time in which to file the election.

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

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

**RULE 12.5A APPOINTMENT OF GUARDIAN FOR MINOR.
CONSENTS REQUIRED.**

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

forth the reason and give such notice of the petition as the Court may direct.

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

- (1) his business, and domicile;
- (2) a statement that he is a citizen of the United States, able to speak, read, and write the English language; and
- (3) a statement that he is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety or an officer or an employee of the corporate surety of such a fiduciary; and
- (4) a statement that he has no interest adverse to the minor.

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

(c) *Consent of Minor.* If the minor is fourteen and over, he shall make his selection of a Guardian by Consent and Joinder conforming to Rule 3.4B.

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

**RULE 12.5B GUARDIANS. MINORS. BOND.
RESTRICTED ACCOUNT.**

(a) *Individuals as Guardians.* Except in special circumstances, the Court will not appoint an individual as a guardian of the estate of a minor without setting bond, as the Court in its discretion deems appropriate. (Exceptions may include situations where a corporate guardian cannot be secured or the only asset of the minor is a regular benefit payment such as pension, Social Security, Veterans' Administration, Public Assistance, Railroad Retirement payments.)

(b)(1) In lieu of the entry of security, an individual guardian may be authorized to

(i) deposit the funds comprising the minor's estate in an insured interest-bearing account; or

(ii) invest in a building and loan association or Federal savings and loan association subject to the express restriction, to be noted on the records of the institution, **NOT TO BE WITHDRAWN UNTIL SAID MINOR REACHES THE AGE OF EIGHTEEN (18), OR UPON FURTHER ORDER OF THIS COURT**, and with a further requirement that counsel shall file of record proof of the deposit of funds into the restricted account with the Clerk within thirty (30) days of the order.

(2) Whenever an individual guardian has been appointed, the Court will, except in special circumstances, require a bond with corporate surety authorized to do business in Pennsylvania and approved by the Court to act as surety on bonds. All such bonds shall be approved by the Court before filing.

(c) *Minor reaching majority. No prior withdrawals.* The decree of the Court may contain a further provision that if no withdrawals are made from the account prior to the minor reaching his majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the guardian and the former minor without further Order of the Court.

(d) *Minor reaching majority. Prior withdrawals.* If, upon subsequent Order of Court, withdrawals have been made from the account, the guardian shall file a petition for his discharge upon the minor's attaining age eighteen (18). There shall be attached to the petition:

(1) a statement in the nature of an account which shall conform to the requirements of Sch. Co. O.C. Rule 6.9C(1) and (4); and

(2) an affidavit by the guardian setting forth that he has received no additional assets belonging to the minor, and that all claims of which he has notice have been paid.

(e) *Additional Assets.* When the guardian has received assets in addition to the deposit or investment made in accordance with this rule, he shall account as if the restricted account did not form part of his estate.

**RULE 12.5D MINOR'S ESTATE NOT EXCEEDING
STATUTORY LIMITATION.**

(a) *Disposition.* If the value of the real and personal estate of a minor does not exceed the statutory limitation as defined in Section 5101 of the P.E.F. Code, the Court may:

(1) authorize payment or delivery to the minor, or the parent or other person maintaining the minor;

(2) direct the deposit of the money in a restricted account, in the name of the natural guardian of the minor, or of the minor himself; or

(3) make such provision for the retention or deposit of securities or other assets, as the Court shall deem in the best interests of the minor.

(b) *Mortgage or Sale of Real Property.* If the entire estate of a minor does not exceed the statutory limitation as defined in Section 3531 of the P.E.F. Code, 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 be in compliance with Sch. Co. O.C. Rule 12.9A(5) and 12.11A governing the sale or mortgage of real property by a guardian. The Order of Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

**RULE 12.5E COMPROMISE, SETTLEMENT,
DISCONTINUANCE AND DISTRIBUTION.
MINORS.**

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

(b) The Court may approve the petition without requiring the appearance of the minor, his guardian, or his doctor, provided the Court concludes that the information contained in the petition is sufficient to satisfy that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred and so long as the petition contains all information set forth in Sch.R.C.P. 2039.

(c) Form of Proposed Order. The form of proposed order shall be as follows:

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

In Re:	No.
a Minor	
	Minor's Compromise

ORDER OF COURT

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

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

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

Pursuant to Sch. Co. O.C. Rule 12.5B(c), if no withdrawals are made from the account prior to the minor reaching his/her majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the natural parent(s) and the former minor without further Order of this Court.

BY THE COURT,

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

Orphans' Court Rules

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

In Re: | No.
|
a Minor |
| Minor's Compromise

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

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

Counsel for Parents and Natural Guardians
of _____, a minor

**RULE 12.5F MINOR'S ESTATE. ALLOWANCES.
APPROVAL OF COURT.**

(a)(1) *In General. Responsibility of Guardian.* Expenditures from income for the benefit of the minor, or for counsel fees in a nominal amount for routine services, whether payable from principal or income, should ordinarily be made by the guardian upon his own responsibility without application to the Court for approval.

(2) *Mandatory Approval by the Court.* Except as provided in the subparagraph (a)(1) of this rule, no payments shall be made by the guardian of the estate, unless approval by the Court is first obtained, when payment is to be made from principal, or, when special services have been performed by counsel and the guardian is in doubt as to the reasonableness of the fee.

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

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

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

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

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

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

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

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

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

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

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

RULE 12.5G MINOR'S ESTATE. FUNERAL EXPENSES.

A petition for allowance for reasonable funeral expenses of a minor's spouse, child, or indigent parent shall set forth the facts, so far as appropriate, required to be set forth in a petition for allowance for maintenance, support, and education and such other facts as may aid the Court in determining the necessity for an affirmative decree.

RULE 12.6A APPOINTMENT OF TRUSTEE. EXHIBIT.

A copy of the trust instrument shall be attached to the petition.

RULE 12.7A DISCHARGE OF FIDUCIARY.

A petition with account annexed for the discharge of a personal representative under Pa. O.C. Rule 12.7(b) shall also conform as far as practicable to the requirements of a petition under Sch. Co. O.C. Rule 6.11C for the settlement of a small estate under the provisions of Section 3102 of the P.E.F. Code.

**RULE 12.7B DISCHARGE OF GUARDIAN PRIOR TO
WARD ATTAINING AGE 18.**

Where a guardian asks to be discharged prior to ward attaining age eighteen (18), he shall file an account in the office of the Clerk, accompanied by a petition setting forth the grounds for the application, and asking for the appointment of a suitable person to act as guardian of the ward, and also accompanied by a proposed order to place the account upon the Audit List; provided, however, where the net estate does not exceed the statutory limitation as defined in Section 5101 of the P.E.F. Code, the Court, in its discretion, may dispense with an order to place the account upon the Audit List and may award the balance for which the guardian may be found accountable to the minor or to the parent or other person maintaining the minor without requiring the appointment of another guardian or the entry of security.

**RULE 12.9A PUBLIC SALE OF REAL PROPERTY.
CONTENTS OF PETITION.**

(a)(1) *Personal Representative.* A petition by a personal representative to sell real property at public sale, under the P.E.F. Code, shall set forth in separate paragraphs:

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

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

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

(iv) a full description of the real property to be sold, improvements thereon, by whom it is occupied and its rental value;

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

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

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

(viii) the terms of the proposed sale; and

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

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

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

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

(iii) a statement of all real property owned by decedent, wherever situated, which has come to the petitioner's knowledge; and

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

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

- (1) a statement, in substance, of the provisions of the instrument creating the trust, particularly the powers, if any, therein given to the trustee in respect of real property;
 - (2) a copy of the instrument creating the trust, in the form of an exhibit;
 - (3) the total value of the personal property and the real property, respectively, forming the corpus of the trust;
 - (4) the amount of the bond, if any, filed;
 - (5) the names of all parties interested as beneficiaries, including life tenants and remaindermen, who will be affected by the granting of the petition, whether any of them are minors, incapacitated persons, or deceased, and if so, the names and the record of appointment of their fiduciaries;
 - (6) a full description of the real property proposed to be sold, the improvements thereon, by whom it is occupied, and the rental value thereof;
 - (7) the reason the sale of the real property involved is necessary or desirable for the proper administration of the trust estate;
 - (8) the liens and charges, if any, of record against the real property to be sold;
 - (9) that the trustee is not otherwise authorized to sell by the P.E.F. Code, or is denied the power by the trust instrument; or that it is advisable that the sale have the effect of a judicial sale, stating the reason; and
 - (10) the terms of the proposed sale.
- (c) *Guardian. Incapacitated Person's Estate.* A petition by a guardian of an incapacitated person's estate to sell real property at public sale under the P.E.F. Code shall set forth in separate paragraphs:
- (1) the name, age, marital status and domicile of the incapacitated person; the date of appointment of the guardian and by what Court; and the amount of bond filed;

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

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

(4) the names of the parties in interest as next of kin;

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

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

(7) the terms of the proposed sale.

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

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

(2) the total value of the personal estate and all of the real property, respectively, as shown in the inventory, if filed, otherwise the value of each as received by the guardian and how and from whom received;

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

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

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

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

- (7) the liens and charges, if any, of record against the real property to be sold; and
- (8) the terms of the proposed sale.

RULE 12.9B NOTICE OF PUBLIC SALE OF REAL PROPERTY.

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

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

In pursuance of an Order of the Orphans' Court Division aforesaid, the real estate indicated below will be offered for sale at the time and place stated. The terms and conditions of sale are of record in the office of the Clerk of the Orphans' Court at the Schuylkill County Courthouse, Pottsville, Pennsylvania, where they may be examined by the parties interested.

- (b) The advertisement shall give the name of the decedent, trust beneficiary, minor, or incapacitated person, the municipality in which he resided, the place in which lies the real estate to be offered for sale, an abridged description of the real estate (including, where possible, the street and house number, and block and lot number), the improvements thereon erected, the place, date, and time of sale, the name and title of the personal representative directed to make the sale, and the name of the attorney representing the fiduciary.
- (c) At least ten (10) days written notice shall be given to all non-joining parties interested (1) as heirs, devisees, legatees, or lien holders, where the property to be sold is that of a decedent's

estate; or (2) as the next of kin, where the property to be sold is that of an incapacitated person; or (3) as beneficiaries, including life tenant and remaindermen, of the trust estate where the sale is to be by a trustee; or (4) as the parents or other person maintaining the minor where the property to be sold is that of a minor.

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

**RULE 12.9C PUBLIC SALE OF REAL PROPERTY.
RETURN OF SALE.**

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

- (a) proofs of publication of the notice required by Sch. Co. O.C. Rule 12.9B(a);
- (b) when and to whom written notice was given under Sch. Co. O.C. Rule 12.9B(c); and
- (c) the name of the purchaser and the purchase price.

**RULE 12.9D PUBLIC SALE OF REAL PROPERTY.
DECREE**

Upon return of sale under Sch. Co. O.C. Rule 12.9C, the Court may enter a Decree of Confirmation Nisi and fix the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or the Court may excuse the fiduciary from entering additional security; and the Decree of Confirmation Nisi so entered is FINAL unless exceptions are filed within ten (10) days of the date signed.

RULE 12.10A PRIVATE SALE OF REAL PROPERTY

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

**RULE 12.10B PRIVATE SALE OF REAL PROPERTY.
PUBLIC NOTICE OF SALE. FORM OF
NOTICE.**

Public notice of any proposed private sale under Order of Court shall be given by advertisement one (1) time in at least one newspaper of general circulation published in the County of Schuylkill and in the legal publication designated by these rules; unless excused by Order of Court, notice shall also be given by personal service or registered mail to the last known address of all non-joining interested parties as specified in Sch. Co. O.C. Rule 12.9B(c); and shall be in the following form:

**COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
ORPHANS' COURT DIVISION**

PRIVATE SALE OF REAL ESTATE

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

Notice is hereby given that _____
(personal representative - trustee - guardian) has filed in the office of the Clerk of the said Court his petition praying for an order of sale of the real estate of said (decedent - minor - incapacitated person) situate _____
at private sale to _____ for the sum of
\$_____ for the purposes in the petition set forth.
If no exceptions are filed thereto or objections are made to

granting the same, the Court will be asked to take action upon the petition on the _____ day of _____, 20__, at _____ a.m., at the Schuylkill County Courthouse, Pottsville, Pennsylvania.

Attorney for Petitioner

**RULE 12.10C PRIVATE SALE OF REAL PROPERTY.
HIGHER OFFER.**

Any person desiring to make a substantially higher offer for real property offered at private sale may do so at the time the petition is presented for confirmation of the proposed sale, whereupon the Court will make such order as it deems advisable under the circumstances.

RULE 12.10D CONFIRMATION OF SALE.

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

- (1) fixing the amount of security or additional security which the personal representative, trustee, or guardian shall be required to enter or excusing the fiduciary from entering additional security; and
- (2) confirming the sale absolutely effective immediately or as of the time the required security or additional security, if any, is approved and filed.

RULE 12.10E SALE BY FIDUCIARY WITHOUT COURT ORDER.

In a sale, whether public or private, of real property by a fiduciary without benefit of an Order of Court directing or authorizing such sale, where he was required to give bond as such fiduciary, he shall present his petition to the Court before

the proceeds of the sale are paid to him by the purchaser setting forth:

- (a) the date of death of the decedent;
- (b) the date of grant of letters to the petitioner;
- (c) the amount of the bond filed by him and the date of such filing;
- (d) the date of filing of the inventory and the total valuation of the personal estate and the real estate, respectively;
- (e) a short description of the real property sold, the name of the purchaser, and the amount of the consideration to be paid; and
- (f) a prayer for an order fixing the amount of additional security to be entered or for an order excusing him from filing additional security, as the case may be, and authorizing the fiduciary to receive the proceeds of sale.

RULE 12.11A MORTGAGE OF REAL PROPERTY.

Contents of Petition. A petition to mortgage real property by a personal representative, trustee, or guardian shall conform as closely as practicable to the requirements of Sch. Co. O.C. Rule 12.9A with regard to a petition to sell real property at public sale by the same fiduciary.

RULE 12.11B PLEDGE, LEASE, OR EXCHANGE OF REAL PROPERTY.

The practice and procedure governing petitions by a personal representative, trustee, or guardian to pledge, lease, or exchange, or to grant an option for the pledge, lease, or exchange of property under the P.E.F. Code, shall be governed by Sch. Co. O.C. Rule 12.10 governing the private sale of mortgage by such fiduciary.

RULE 12.12A INALIENABLE PROPERTY. PUBLIC SALE.

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

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

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

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

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

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

(6) sufficient facts to enable the Court to determine whether the proposed sale will be to the interest and advantage of the parties, and whether the proposed sale may be made without prejudice to any trust, charity, or purpose for which the real property is held, and without violation of any laws which may confer an immunity or exemption from sale or alienation; and

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

(b) *Guardian of a Minor.* A petition by a guardian to sell real property at public sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

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

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

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

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

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

RULE 12.12B INALIENABLE PROPERTY. PUBLIC SALE. EXHIBITS.

(a) *Exhibits.* Consents to the sale signed by those parties in interest 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 the P.E.F. Code.

(b) The practice and procedure with respect to the notice, confirmation and the entry of security shall conform to the appropriate provisions of Sch. Co. O.C. Rules 12.9B, 12.9C and 12.9D.

RULE 12.12C INALIENABLE PROPERTY. PRIVATE SALE.

(a)(1) *Trustee.* A petition by a trustee to sell real property at private sale, under Chapter 83 of the P.E.F. Code, shall set forth in separate paragraphs:

(i) the information required under Sch. Co. O.C. Rules 12.12A and 12.12B;

(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 parties in interest desire the sale to be made and are willing to join in the deed.

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

(i) the information required in Rules 12.12A and 12.12B; 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.

(b) *Exhibits.* The following exhibits shall be attached to a petition by a fiduciary to sell real property at private sale, under Chapter 83 of the P.E.F. Code:

(1) affidavits of two real estate appraisers setting forth the information required by Pa. O.C. Rule 12.10(b); and

(2) consents to the sale signed by those parties in interest 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 the P.E.F. Code.

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

RULE 12.12D INALIENABLE PROPERTY. MORTGAGE.

(a)(1) *Contents of Petition.* A petition by a fiduciary to mortgage real property, under Chapter 83 of the P.E.F. Code, shall conform as closely as practicable to the requirements of Sch. Co. O.C. Rule 12.9 with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed loan; and shall provide sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(2) *Exhibits. Security.* The exhibits required by Sch. Co. O.C. Rule 12.12C(b) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted directed to all parties who have not appeared, as

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provided by the P.E.F. Code. Security shall be fixed as provided by Rule 12.12C(c).

INCAPACITATED PERSONS

RULE 14.1A COUNSEL. INCAPACITATED PERSONS.

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

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

RULE 14.1B REPORTS OF GUARDIAN. NOTICE.

(a)(1) *Guardian of the Person.* At least once within the first twelve months of the appointment and annually thereafter, the guardian of the person, whether plenary or limited, shall file a report with the Court outlining the guardian's performance. The form of the report shall be substantially the same as the Clerk of the Orphans' Court Form No. 53. A final report shall be filed within sixty (60) days after the death of the incapacitated person.

(2) *Guardian of the Estate.* In addition to the filing of an inventory which must be filed within ninety (90) days of appointment, the guardian of the estate, whether plenary or limited, shall file a report with the Court at least once within the first twelve months of the appointment and annually thereafter as to the administration of the ward's estate. The Court, in its discretion, may require that the report be filed more frequently. The form of the report shall be substantially the same as the Clerk of the Orphans' Court Form No. 54. A final report shall be filed within sixty (60) days after the death of the ward.

(b) *Notice.* The guardian shall serve written notice of the filing of the report upon each care provider, next-of-kin, and all parties

in interest by first-class mail within ten (10) days of filing the report in substantially the following form:

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

ANNUAL REPORT OF GUARDIAN

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

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

RULE 14.2A GUARDIANS. BOND.

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

RULE 14.2B SMALL ESTATES.

If at hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation as defined in §5505 of the P.E.F. Code, 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.

RULE 14.2C NOTICE.

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

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

RULE 14.2D ALLOWANCE FOR MAINTENANCE AND SUPPORT.

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

(1) the name of the guardian and the date of his appointment; if the petitioner is not the guardian, his relationship to the incapacitated person, and if not related, the nature of his interest;

(2) a summary of the inventory, the date it was filed, and the nature and present value of the estate;

(3) the address and occupation, if any, of the incapacitated person;

(4) the names and addresses of the incapacitated person's dependents, if any;

(5) a statement of all claims of the incapacitated person's creditors known to petitioner;

(6) a statement of the requested allowance and the reason therefor; a statement of all previous allowances made by the Court; and

(7) if any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, that notice of the request for allowance has been given to that agency.

(b) *Accounts and Distribution.* The practice and procedure with respect to the filing and audit of accounts, as well as the distribution of the assets of the estate, shall conform with Sch. Co. O.C. Rule 6.9C(e).

ADOPTIONS

**RULE 15.1A PETITION TO CONFIRM CONSENT OF
NATURAL PARENT. NOTICE. COPY OF
CONSENT TO NATURAL PARENT.**

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

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

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

**RULE 15.4A INVOLUNTARY TERMINATION OF
PARENTAL RIGHTS. NOTICE.**

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

RULE 15.4B INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. SERVICE.

- (a) Where service is attempted by registered mail at the natural parent's last known address pursuant to Pa. O.C. Rule 15.6 and the post office's return indicates that service was not made, petitioner may petition the Court to order service by publication.
- (b) A petition for publication must outline efforts made by petitioner through postal authorities, relatives, mutual friends, or other means to locate the present address of the natural parents.
- (c) Where the Court orders service by publication, it shall be made in a newspaper of general circulation one (1) time in the area of the natural parent's last known address. Proof of publication must be submitted at the hearing on the petition for involuntary termination.
- (d) Where service of the hearing has been made by publication, the Decree Nisi shall be immediately published in the same newspaper of general circulation referred to in subparagraph (c) of this rule.

RULE 15.4C INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. INCARCERATED PARENT.

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

RULE 15.4D CONTESTED INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. APPOINTMENT OF

COUNSEL FOR MINOR CHILD.

COSTS.

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

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

(1) Respondent shall deposit said payment upon the filing of the Answer and Petitioner shall deposit said payment within ten (10) days after service of the Answer. Failure to deposit said funds may result in civil contempt of court or imposition of sanctions as the Court deems appropriate.

(c) All parties shall file a list of witnesses and the expected time required for hearing within ten (10) days after service of court order appointing counsel for the minor.

RULE 15.5A ADOPTIONS.

(a)(1) When a Report of Intention to Adopt has been filed, a Petition for Adoption must include in all cases a statement that petitioner's attorney has made arrangements for a public child care agency or a consenting private child care agency or appropriate person designated by the Court to perform a Home Investigation on the adopting parent(s).

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

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

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

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

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

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

(3) Where the Petition for Adoption contains the consent of the natural parent whose parental rights have not previously been terminated, petitioner's attorney shall certify at the hearing

that the natural parent has received a copy of the consent of adoption which he/she signed.

SHORT TITLE

RULE 17.1A SHORT TITLE.

These rules shall be known as Rules of the Court of Common Pleas of Schuylkill County, Orphans' Court Division, and shall be cited as Sch. Co. O.C. Rules.