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RULE 16. PROCEEDINGS PURSUANT TO SECTION 3206
OF THE ABORTION CONTROL ACT 64

IN THE MATTER OF THE RESCISSION : IN THE COURT OF COMMON PLEAS
AND PROMULGATION OF LOCAL RULES : OF YORK COUNTY, PENNSYLVANIA
OF **THE YORK COUNTY ORPHANS'** :
COURT DIVISION : No. 67 - 81 - 1055

ADMINISTRATIVE ORDER

AND NOW, TO WIT, this **20th** day of **April, 1995**, it is ordered that the following Local Rules of the York County Orphans' Court are rescinded and promulgated as follows:

1. Rules 1 through 161 are hereby rescinded in their entirety.
2. Rules 1 through 16 that follow this Order are hereby promulgated as set forth in the text filed herewith.

IT IS FURTHER ORDERED that this Administrative Order shall be effective thirty (30) days after the publication thereof in the Pennsylvania Bulletin and shall govern all matters thereafter commenced, and, insofar as just and practical, all matters then pending.

IT IS FURTHER ORDERED that in accordance with Pa.R.C.P. 239, the District Court Administrator shall:

(a) File seven certified copies hereto with the Administrative Office of the Pennsylvania Court.

(b) Distribute two certified copies hereof to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(c) File one certified copy hereof with the Orphans' Court Procedures Rules Committee.

(d) Cause a copy hereof to be published in the York Legal Record once a week for two successive weeks at the expense of the County of York.

(e) Cause to be printed an adequate supply of the Rules hereby promulgated for distribution to the Judges and the members of the Bar of this

Court, and for sale at cost to any other interested parties, such printing to be done at the expense of the County of York in accordance with the provisions of the Act of July 9, 1976, P.L. 586, Sec. 2, 42 Pa.C.S.A. §3722.

(f) Supervise the distribution hereof to all Judges and all members of the Bar of this Court.

BY THE COURT,

JOHN T. MILLER
John T. Miller, Judge
Orphans' Court Division

JOSEPH E. ERB
Joseph E. Erb, President Judge

YORK COUNTY ORPHANS' COURT RULES

RULE 1. JUDGES - LOCAL RULES

RULE 1.1. POWERS OF JUDGES

Any judge of an Orphans' Court Division, whether or not it consists of more than one judge, may hear and determine all matters, jurisdiction of which is exercised through the Orphans' Court Division.

NOTE: See PEF Code §701; See also 2 Pa.C.S. §§323, 324, 325, 326 and 1722(a)(1).

(Effective June 26, 1995)

RULE 1.2. LOCAL RULES

The Orphans' Courts of the several judicial districts of this Commonwealth may adopt local rules regulating practice and procedure, but such rules shall not be inconsistent with any rule adopted by the Supreme Court of this Commonwealth or any Act of Assembly regulating the practice and procedure in the Orphans' Courts of this Commonwealth.

(Effective June 26, 1995)

Rule 1.2.1. Local Rules

1.1 The Orphans' Court Rules of the Nineteenth Judicial District, in conjunction with the Supreme Court Orphans' Court Rules and all Acts of Assembly regulating the practice and procedure in the Orphans' Court, shall regulate the practice and procedure in the Orphans' Court Division of this Court.

1.1 The Rules of the Court of Common Pleas of York County shall, except where inconsistent with these rules, apply in Orphans' Court cases.

1.1 These rules shall be known as the York County Orphans' Court Rules and shall be cited as Y.C.O.C.R. The Supreme Court Orphans' Court Rules shall be cited as Pa.O.C. Rules.

NOTE: See Pa.O.C. Rule 3.1.

(Effective June 26, 1995)

Rule 1.2.2. Local Rules

Every paper filed with the Court shall be typewritten, double-spaced, except for quotations, and shall have a suitable backing upon which shall be endorsed the name of the estate or other party, the nature of the proceeding and the phrase "File No...." for insertion of such number by the Clerk. Such backing shall be endorsed by the signature of an attorney authorized to practice in this Court, or the name of the party if he or she has no attorney. The name of the attorney or the name of the party, if he or she has no attorney, shall be typed under the signature.

(Effective June 26, 1995)

Rule 1.2.3. Docketing of Cases

All pleadings and other papers shall be filed in the appropriate office before they shall be entertained by this Court.

(Effective June 26, 1995)

Rule 1.2.4. Non-Jury Trials and Other Proceedings

Cases requiring a hearing before a judge shall include, but shall not be limited to, voluntary relinquishments of parental rights, involuntary terminations of parental rights, adoptions, appointments of guardians, hearings on objections to accounts and hearings on challenges to grants of letters. Hearings on all such cases shall be scheduled by the Court.

(Effective June 26, 1995)

Rule 1.2.5. Court Calendar

The sessions of the Orphans' Court shall be in accordance with the Court calendar adopted annually.

(Effective June 26, 1995)

Rule 1.2.6. Argument Court

Cases requiring argument shall be individually scheduled by order of the Court upon the filing of a praecipe by counsel with the Clerk of the Orphans' Court. A copy of this praecipe shall be provided to the Court.

(Effective June 26, 1995)

Rule 1.2.7. Inter Vivos Trust

When the Court is first required to exercise its jurisdiction over an inter vivos trust, the original trust instrument or a copy of it certified by counsel to be true and correct and any amendments thereto shall be filed with the Clerk. These instruments shall be indexed and recorded by the Clerk. Any revocation shall be likewise filed, indexed and recorded. The Rules of Court applicable to testamentary trusts shall apply, generally, to inter vivos trusts.

(Effective June 26, 1995)

Rule 1.2.8. Sureties

1.1 Individual Sureties. Individuals proposed as sureties on bonds of fiduciaries shall make an affidavit to the Clerk, setting forth such information as the Clerk shall require. Each affidavit shall be filed together with its respective bond. No member of the Bar or any employee of this Court shall act as surety in any proceeding in this Court, except by special leave of Court.

1.1 Corporate Sureties. Any corporate surety allowed to do business in Pennsylvania may act as surety, providing that a current certificate evidencing approval by the Insurance Department of the Commonwealth of Pennsylvania, together with a designation of attorney in fact, is on file with the Clerk.

(Effective June 26, 1995)

RULE 2. CONSTRUCTION AND APPLICATION OF RULES

RULE 2.1. CONSTRUCTION OF RULES

The rules adopted by the Supreme Court regulating the practice and procedure of the Orphans' Courts of this Commonwealth, and the rules adopted by such Courts, shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The Court at every stage of any action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties in interest.

(Effective June 26, 1995)

Rule 2.1.1. Notes

Notes and footnotes in these rules are for informational purposes and shall not be considered as part of these rules.

(Effective June 26, 1995)

RULE 2.2. WAIVER OF TIME LIMITATION

The Court, upon its own motion or the motion of any party, may extend any limitation of time prescribed by these rules.

(Effective June 26, 1995)

RULE 2.3. DEFINITIONS

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this rule:

"Clerk" means the Clerk of the Orphans' Court Division.

"Court", "Orphans' Court" or "Orphans' Court Division" means the Orphans' Court Division of the Court of Common Pleas, or any judge thereof, having jurisdiction.

"Fiduciary" includes executors, administrators, guardians and trustees, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the Orphans' Court Division.

"Register of Wills" or "Register" means the Register of Wills having jurisdiction.

(Effective June 26, 1995)

Rule 2.3.1. Definitions

When used in these rules, the following words shall have the meanings ascribed to them in this rule, unless the context clearly indicates otherwise.

"Exception" means a disagreement with any decree, adjudication, confirmation, or other decision of this Court or any act of an auditor, master, or official examiner appointed by this Court.

"Objection" means a disagreement with any matter relating to the family exemption, surviving spouse's allowance, or with any act or omission of a fiduciary or as otherwise defined or permitted by these rules.

"PEF Code" means the "Probate, Estates and Fiduciaries Code," 20 Pa.C.S. §101, et seq.

NOTE: For local rules applicable to exceptions, see Y.C.O.C.R. 7.1.1 and 7.1.2. The Court may disregard any misnomer of an exception or objection, and no such misnomer shall be grounds for dismissal. See Pa.O.C.R. 2.1 and Pa.R.C.P. 126.

(Effective June 26, 1995)

RULE 3. PLEADING AND PRACTICE

RULE 3.1. CONFORMITY TO EQUITY PRACTICE IN GENERAL

Except where otherwise provided by a rule adopted by the Supreme Court, or by an Act of Assembly, or by general rule or special order of the local Orphans' Court, and except for the Notice to Defend required by Rule of Civil Procedure 1018.1, which form of notice shall be required only if directed by general rule or special order of the local Orphans' Court, the pleading and practice shall conform to the pleading and practice in equity in the local Court of Common Pleas.

(Effective June 26, 1995)

RULE 3.2. PETITION, ANSWER AND REPLY

1.1 On or before the return day fixed in the citation or order, and in all other cases within twenty days after service upon him of a copy of any petition, the party opposing the granting of the prayer of the petition shall file an answer admitting or denying the averments of fact of the petition and specifically stating their objections thereto and averring the facts relied upon by them.

1.1 Within twenty days after service upon a person of a copy of an answer, a petitioner may file a reply thereto and admit, deny or avoid the facts averred in the answer.

(Effective June 26, 1995)

Rule 3.2.1. Limitation of Pleadings

The pleadings in matters before this Court shall be limited to a petition, an answer, new matter, a reply, preliminary objections, and an answer to preliminary objections.

(Effective June 26, 1995)

RULE 3.3. AVERMENT OF INCAPACITY

Whenever the name of a person must be set forth in a pleading or statement of proposed distribution and such person is not sui juris, that fact shall be set forth, together with the name and address of the guardian, trustee or other representative of such person, if any. If the person not sui juris is a minor who has no guardian of his estate, the minor's age, the name and address of his parents and of the person with whom he resides shall also be set forth.

(Effective June 26, 1995)

RULE 3.4. FORM OF PETITION. EXHIBITS. CONSENTS

- 1.1 A petition shall set forth:
- 1.1.1.1 the caption;
 - 1.1.1.1 a heading, indicating briefly the purpose of the petition;
 - 1.1.1.1 a concise statement of the facts relied upon to justify the relief desired, together with the citation of any Act of Assembly relied upon; and
 - 1.1.1.1 a prayer for the relief desired.
- 1.1 The petitioner shall attach to the petition:
- 1.1.1.1 a form of decree; and
 - 1.1.1.1 such exhibits, consents or approvals as may be required by Act of Assembly or by local rule.
- 1.1 If the petitioner is unable to attach any necessary exhibit, consent or approval, he shall so state in his petition, together with the reason for his inability.

NOTE: See York County Civil Rule 205.2 for additional requirements as to form of pleadings and other papers. See Pa.R.C.P. 1023 to 1025 for requirements as to verification, signing, and endorsement.

(Effective June 26, 1995)

RULE 3.5. MODE OF PROCEEDING ON PETITION

Proceeding on petition shall be by citation to be awarded by the Court upon application of petitioner in any case where jurisdiction over the person of the respondent is required and has not previously been obtained. In all other cases, proceedings on petition shall be by notice. In either event, a copy of the petition shall be served with the citation or notice unless service thereof is made by publication. Neither a citation nor notice shall be required where all parties in interest are the petitioners or their consents or joinders are attached.

(Effective June 26, 1995)

RULE 3.6. DEPOSITIONS, DISCOVERY, PRODUCTION OF DOCUMENTS AND PERPETUATION OF TESTIMONY

The local Orphans' Court, by general rule or special order, may prescribe the practice relating to depositions, discovery, production of documents and perpetuation of testimony. To the extent not provided for by such general rule or special order, the practice relating to such matters shall conform to the practice in the Trial or Civil Division of the local Court of Common Pleas.

(Effective June 26, 1995)

Rule 3.6.1. Practice as to Depositions, Discovery, Production of Documents, and Perpetuation of Testimony

1.1 Leave to take depositions, to obtain discovery or production of documents, or to perpetuate testimony may be granted only on petition upon cause shown except upon agreement of counsel.

1.1 The procedure relating to depositions, discovery, production of documents, and perpetuation of testimony shall be governed by special order of the Court in every case.

(Effective June 26, 1995)

Rule 3.6.2. Pre-Trial Conference

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

- 1.1 the simplification of the issues;
- 1.1 the necessity or desirability of amendments to the pleadings;
- 1.1 the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- 1.1 the limitation of the number of expert witnesses; and
- 1.1 such other matters as may aid in the disposition of the action.

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

NOTE: Practice as to pre-trial conferences shall be governed by this York County Orphans' Court Rule 3.6.2 rather than York County Civil Rules 212 and 1501A.

(Effective June 26, 1995)

RULE 4. COMPUTATION OF TIME

RULE 4.1. GENERALLY

1.1 When any period of time is referred to in any rule, such period in all cases, except as otherwise provided in Rule 2 and 3 of this Section, shall be so computed as to exclude the first and include the last day of such period.

1.1 Whenever the last day of any such period shall fall on Saturday or Sunday, or on any day made a legal holiday by the laws of this Commonwealth or of the United States, such day shall be omitted from the computation.

(Effective June 26, 1995)

Rule 4.1.1

For example, when it is required to give "at least ten (10) days notice" of a hearing to be held on Monday, the 14th day of a month, the notice would have to be served not later than the end of day 1 of the month; if served on day 2, the ten-day notice period would end on day 12 of the month, which is a Saturday and is omitted from the computation, as is Sunday the 13th day of the month. Thus, the 10th day (the last included day) would be Monday the 14th day of the month; no hearing could be held on that day, since the full day, for notice purposes, must elapse.

(Effective June 26, 1995)

RULE 4.2. PUBLICATION FOR SUCCESSIVE WEEKS

Whenever in any rule or Act of Assembly providing for the publishing of notices, the phrase "successive weeks" is used, weeks shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which publication shall be made.

(Effective June 26, 1995)

RULE 4.3. COMPUTATION OF MONTHS

Whenever in any rule or Act of Assembly the lapse of a number of months after or before a certain day is required, such number of months shall be computed by counting the months from such day excluding the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order as the day of the month from which the computation is made, unless there are not so many days in the last month so counted, in which case the period computed shall expire with the last day of such month.

(Effective June 26, 1995)

RULE 5. NOTICE

RULE 5.1. METHOD

Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, whenever notice is to be given a person, it shall be given:

1.1 by service upon the attorney appearing of record for such person; or

1.1 if there is no such attorney, by personal service, delivery at the residence of such person or by mail, if his residence is known; or

1.1 if his residence is not known, by publication once a week during three successive weeks in the legal periodical, if any, and in a newspaper of general circulation published at or near his last known residence within the county; or

1.2 in such other manner as the Court shall direct.

NOTE: York County Civil Rule 6210 designates the York Legal Record as the legal periodical for York County.

(Effective June 26, 1995)

Rule 5.1.1 Method. Form of Notice

Except as otherwise provided in these rules or as provided by Act of Assembly, every notice shall contain at least the following information:

- 1.1 the caption of the case;
- 1.1 a description of the nature of the proceeding;
- 1.1 the date, time, and place when the matter is to be heard by the Court to the extent then known;
- 1.1 the name of the decedent, settlor, minor, or incapacitated person, if not disclosed by the caption;
- 1.1 the names and addresses of all fiduciaries; and
- 1.1 the name and address of counsel for each fiduciary.

(Effective June 26, 1995)

RULE 5.2. METHOD. PERSON UNDER INCAPACITY

Whenever notice is to be given a person who is not sui juris, notice shall be given to his guardian or trustee, but if there is no such guardian or trustee, notice shall be given in such manner as the Court by general rule or special order shall direct. The return of such notice or an averment of such notice in a pleading shall set forth the incapacity of the person who is not sui juris and the name and address of his representative or other person who has been notified on his behalf.

(Effective June 26, 1995)

Rule 5.2.1. Method. When No Fiduciary

Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, notice to a person who is not sui juris and whose interest is not represented by a guardian or trustee shall be given:

1.1 to the person, if the person is not sui juris solely by reason of minority but is over fourteen years of age; and

1.1 unless the Court by special order shall otherwise direct, to such one or more of the following persons as may exist:

1.1.1.1 the parents of the person, if the person is an unmarried minor and one or both of the parents are sui juris;

1.1.1.1 the spouse of the person;

1.1.1.1 the individual with whom the person resides or by whom the person is maintained;

1.1.1.1 the superintendent or other official of the institution having custody of the person;

1.1.1.1 the attorney-in-fact with power to act on behalf of the person under a durable general power of attorney, if known; and

1.1 to such other persons as the Court by special order may direct.

(Effective June 26, 1995)

RULE 5.3. TIME FOR NOTICE

Whenever notice of the intention to do any act is required, such notice shall be given at least ten days prior to the doing of the act, unless a different period is specified by a rule adopted by the Supreme Court or by an Act of Assembly.

(Effective June 26, 1995)

Rule 5.3.1. Advance Notice

In any proceeding in which no preliminary decree is required, the notice may be given in advance of the filing of the petition or other application to the Court. In such case the return of notice required by Rule 5.4 and Local Rule 5.4.1 may be included in or attached to the petition. The Court may direct additional notice whenever that is deemed advisable by the nature of the proceeding or the circumstances.

(Effective June 26, 1995)

Rule 5.4. Return of Notice.

Return of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice.

NOTE: See Pa.R.C.P. 76 for the definition of "affidavit."

(Effective June 26, 1995)

Rule 5.4.1. Return of Notice. Additional Requirements.

In addition to the requirements of Rule 5.4, the following requirements shall be satisfied:

1.1 A copy of the notice required to be given shall be attached to the return.

1.1 Return of notice by personal service shall set forth the date, time, place, and manner of service, the identity of the person served, and any other facts necessary for the Court to determine whether proper service has been made.

1.1 Return of notice by mail shall set forth the date on which the notice was placed in the mail, the name and address of the person to whom the notice was addressed, and whether the notice was mailed by ordinary mail or by registered or certified mail. In any case where notice is required to be given by registered or certified mail, both the original mailing receipt and the original return receipt signed by or on behalf of the person to be notified shall be attached to the return. If the person making the return has personal knowledge or cause to believe that the notice was not received by the person to be notified, he or she shall so state in the return.

1.1 Return of notice by publication shall consist of proof of publication together with an affidavit of publication by the publisher or agent of the publisher.

(Effective June 26, 1995)

**RULE 5.5. CHARITIES;
NOTICE TO THE ATTORNEY GENERAL**

In every proceeding in the Orphans' Court involving or affecting a charitable interest with the exception hereinafter set forth, at least fifteen days advance written notice thereof shall be given to the Attorney General of the Commonwealth of Pennsylvania at his principal office at Harrisburg, Pennsylvania, or to a deputy of his whom he shall have designated for such purpose for the judicial district in which the proceeding is pending. The notice shall include or be accompanied by such of the following as may be appropriate:

- 1.1 the caption of the case;
- 1.1 a description of the nature of the proceeding;
- 1.1 the date, time and place when the matter is to be heard by the Court to the extent then known;
- 1.1 the name of the decedent, settlor, incompetent or minor, if not disclosed by the caption;
- 1.1 a copy of the will or other instrument creating the charitable interest;
- 1.1 the name and address of any specific charity which may be affected by the proceeding;
- 1.1 if the charitable interest is a present interest, a description and the approximate market value of that interest;
- 1.1 if the charitable interest is a future interest and the estimated present value of the property involved exceeds \$25,000, a brief description thereof including the conditions precedent to its vesting in enjoyment and possession, the names and ages of the persons known to have interests preceding such charitable interest, and the approximate market value of the property involved;
- 1.1 a description of any unresolved claim and any material question of interpretation or distribution likely to be submitted for adjudication which may affect the value of the charitable interest;
- 1.1 the names and addresses of all fiduciaries;
- 1.1 the name and address of counsel for the fiduciary; and
- 1.1 the name and address of counsel for any charity who has received notice or has appeared for it and the name of the charity which he represents.

Proof of service of the above notice by registered or certified mail or an acknowledgment of such notice received from the Attorney General or his deputy shall be filed of record in every proceeding involving a charitable interest prior to the entry of any decree.

Unless the Orphans' Court directs otherwise by local rule adopted after the effective date hereof, no notice to the Attorney General or his designated deputy shall be required with respect to a pecuniary legacy to a charity in the amount of \$25,000 or less which has been or will be paid in full.

(Effective June 26, 1995)

RULE 5.6. NOTICE TO BENEFICIARIES AND INTESTATE HEIRS

1.1 Requirement of Notice. Within three months after the grant of letters, the personal representative to whom original letters have been granted or his counsel shall send a written notice in substantially the form prescribed to:

1.1.1.1 every person, corporation, association, entity or other party named in decedent's will as an outright beneficiary whether individually or as a class member;

1.1.1.1 the appointed guardian of the estate, parent or legal custodian of any beneficiary who is a minor child under the age of 18 years;

1.1.1.1 the appointed guardian of the estate or, in the absence of such appointment, the institution or person with custody of any beneficiary who is an adjudicated mental incompetent;

1.1.1.1 the Attorney General on behalf of any charitable beneficiary whose interest exceeds \$25,000 or which will not be paid in full;

1.1.1.1 the Attorney General on behalf of any governmental beneficiary or in default of the other heirs of the estate;

1.1.1.1 the trustee of any trust which is a beneficiary; and

1.1.1.1 the spouse, children or other intestate heirs of the decedent as determined under Chapter 21 of the Probate, Estates and Fiduciaries Code.

1.1 Contents of Notice. The notice shall contain the following information:

1.1.1.1 the date and place of decedent's death;

1.1.1.1 whether decedent died testate or intestate;

1.1.1.1 the county in which original letters were granted;

1.1.1.1 the names, addresses and telephone numbers of all appointed personal representatives and their counsel; and

1.1.1.1 a copy of the will or a description of the beneficiary's interest in the estate.

1.1 Manner of Notice. Notice shall be given by personal service or by first-class, prepaid mail to each party whose address is known or reasonably available to the personal representative.

1.1 Certification of Notice. Within ten (10) days after giving the notice required by subdivision (a) of this Rule, the personal representative or his counsel shall file with the Register or Clerk his, her or its certification in substantially the attached form that notice has been given as required by this Rule. No fee shall be charged by the Register or Clerk for filing the certification required by paragraph (d).

1.1 Failure to File Certification. Upon the failure by the personal representative or his counsel to file the certification on a timely basis, the Register shall, after ten (10) days prior written notice to the delinquent fiduciary and his counsel, notify the Court of such delinquency along with a request that the Court conduct a hearing to determine whether sanctions should be imposed upon the delinquent personal representative or his counsel.

1.1 Effect of Notice. This Rule shall not alter, diminish or confer additional substantive rights upon any beneficiary.

1.1 Copies of Rule. The Register shall deliver a copy of this Rule to each personal representative and counsel at the time letters are granted.

(Effective June 26, 1995)

NOTICE OF BENEFICIAL INTEREST IN ESTATE

BEFORE THE REGISTER OF WILLS, COUNTY OF _____, PENNSYLVANIA

In re Estate of _____, deceased, No. _____ of _____

TO: _____ (beneficiary) _____ (address)

Please take notice of the death of decedent and the grant of letters to the personal representative(s) named below. You may have a beneficial interest in the estate as follows:

_____ (if additional space is needed, use back of page)

Name of decedent _____

Last known address of decedent _____

Date of death _____

Place of death _____

County of grant of original letters _____

Decedent died _____ testate _____ intestate.

A copy of the will _____ is _____ is not attached.

Name(s), address(es) and telephone number(s) of all personal representatives appointed

Name _____ Address _____ Telephone _____

_____ Name(s), address(es)

and telephone number(s) of all counsel

Name _____ Address _____ Telephone _____

_____ Additional information may be obtained from the undersigned.

Date _____

Signature _____

Name _____

Address _____

Telephone _____

Capacity: _____ Personal Representative _____ Counsel for personal representative

CERTIFICATION OF NOTICE UNDER RULE 5.6(a)

Name of Decedent: _____

Date of Death: _____

Will No. _____ Admin. No. _____

To the Register:

I certify that notice of beneficial interest required by Rule 5.6(a) of the Orphans' Court Rules was served on or mailed to the following beneficiaries of the above-captioned estate on _____.

Name

Address

_____ Notice has now been given to all persons entitled thereto under Rule 5.6(a) except

Date: _____

Signature

Name _____

Address _____

Telephone (____) _____

Capacity: _____ Personal Representative
_____ Counsel for personal
representative

RULE 6. ACCOUNTS AND DISTRIBUTION

RULE 6.1. FORM

Accounts shall conform to the following rules:

1.1 The dates of all receipts and disbursements, the sources of the receipts, and the persons to whom disbursements are made and the purpose thereof shall be stated except that where a number of payments have been received from the same source or disbursed to the same recipient for the same purpose over a period of time, such receipts or disbursements need not be itemized but may be stated in total amounts only with dates of beginning and ending of the period covered.

1.1 Except where otherwise provided by a special order of the local Court in a particular case, items of administration, distribution, receipts, disbursements, principal, and income shall be separately stated.

1.1 Assets held by the accountant on the date of filing the account shall be separately itemized.

1.1 Testamentary assets shall be segregated from appointive assets.

1.1 Each local Court may adopt further rules not inconsistent with the foregoing regulating the form of accounts.

1.1 Accounts may be prepared and filed in substantial conformity with either: (i) the rules prescribed or forms approved by the local Court or; (ii) any form approved by the Supreme Court of this Commonwealth - whichever the accountant may elect.

1.1 The Uniform Fiduciary Accounting Principles and accompanying commentaries and illustrations recommended by the Committee on National Fiduciary Accounting Standards in collaboration with the National Center for State Courts are approved as an elaboration of the requirements of this rule. Reference may be made to them for determination of the adequacy of a particular account. The model Account formats attached thereto are the approved forms for purposes of paragraph (f) (ii) of this Rule in lieu of all forms heretofore approved.

NOTE: The Uniform Fiduciary Accounting Principles and Model Account Formats mentioned in paragraph (g) of Rule 6.1 are published as an appendix to the Supreme Court Orphans' Court Rules in Pennsylvania Rules of Court - State (West Publishing Co.).

(Effective June 26, 1995)

Rule 6.1.1. Form. Additional Requirements.

1.1 Accounts shall substantially conform to the model account forms approved by the Supreme Court.

1.1 In addition to all other applicable information required by the model account forms approved by the Supreme Court, the first page of the account shall include the following information:

1.1.1.1 a caption;

1.1.1.1 the name and address of the accountant; and

1.1.1.1 the name and address of the attorney representing the accountant.

1.2 In cases where a distribution is proposed, the account shall include a statement of proposed distribution in substantially the form shown in the model account forms approved by the Supreme Court and meeting the requirements of Local Rule 6.9.1.

1.1 The following items shall be attached at the end of the account in the following order:

1.1.1.1 an affidavit or verified statement of the accountant in substantially the form set forth in the model account forms approved by the Supreme Court;

1.1.1.1 a certificate of notice as required by Local Rule 6.3.1; and

1.1.1.1 for the first account of a personal representative, proofs of publication of the grant of letters as required by section 3162 of the Probate, Estates and Fiduciaries Code.

1.1 Accounts that do not substantially conform to the requirements of these rules may be refused an audit and remanded for restatement.

NOTE: See Rule 2.1 for the authority of the Court to disregard any error or defect of procedure which does not affect the substantial rights of the parties in interest.

(Effective June 26, 1995)

RULE 6.2. FORM. SEPARATE ACCOUNTS FOR MINORS

Unless the Court upon cause shown directs otherwise, a separate account shall be filed for the estate of each minor.

(Effective June 26, 1995)

RULE 6.3. NOTICE TO PARTIES IN INTEREST

No account shall be confirmed unless the accountant has given written notice of the filing of the account and the call thereof for audit or confirmation to every unpaid claimant who has given written notice of his claim to the accountant and to every other person known to the accountant to have or claim an interest in the estate as creditor, beneficiary, heir or next of kin.

The notice shall state the date, time and place of the audit to the extent then known; shall also state the last day to file objections to the account in counties where the local rules require written objections; and shall include a copy of the statement of proposed distribution in counties where accounts are not audited in open Court.

NOTE: See §3503 of the Probate, Estates and Fiduciaries Code for exceptions to the requirement of notice where the interest of a person has been satisfied or where a person who may have a claim fails to give timely notice of the claim after demand by a personal representative under §3532(b.1) of the Code.

(Effective June 26, 1995)

Rule 6.3.1. Notice. Additional Requirements

1.1 Notice of the filing of the account and its call for audit shall include the following:

1.1.1.1 a statement that the account was or will be filed with the Clerk on or not later than a specified date and that it has been or will be scheduled to be called for audit before the Court at a specified time, on a specified date, and in a specified courtroom at the county courthouse;

1.1.1.1 a statement that any person who objects to transactions shown in the account must either file written objections with the Clerk on any date prior to the session of the Court when the account is listed for audit or appear in person or by counsel to present objections at the audit session of the Court or the Court may otherwise assume that no objections exist or that any objections have been waived;

1.1.1.2 a statement of any question of interpretation or distribution which will be presented to the Court for determination and the position taken on the question by the accountant, if any, together with a statement that any person who wishes to take a position on the question or a position different from the accountant must appear in person or by counsel at the audit or the Court may otherwise assume that the person has no position or agrees with the position taken by the accountant; and

1.1.1.1 a description of the nature and value or amount of any unresolved claim; a statement whether the claim is admitted or contested; if the claim is admitted, a statement whether it will be paid in full or in part; and if the claim is contested, a statement that the claimant must appear in person or by counsel at the audit to press the claim or the Court may otherwise assume that the claim has been abandoned.

1.1 Notice to persons having or claiming a beneficial interest in the estate shall include copies of the account, the petition for adjudication, and the will or trust instrument or a statement that they will be sent upon request or a statement where they are available for inspection, except that notice to a non-residuary beneficiary whose interest is to be satisfied in full may include instead only a description of the interest and a statement that it is to be satisfied in full.

1.1 The accountant shall attach to the account a certificate signed by the accountant or the attorney for the accountant that he or she has given notice as required by Rule 6.3 and this Local Rule 6.3.1. The certificate shall contain the names and addresses of all persons to whom notice was given together with a copy of the notice given.

NOTE: See Rule 5.5 for additional notice requirements where the proceeding involves a charitable interest.

(Effective June 26, 1995)

RULE 6.4. TIME FOR FILING

The first account of a personal representative shall not be filed until four months have elapsed from the date of the first complete advertisement of the original grant of letters, unless the personal representative has been directed by the Court to file an account prior to that time.

NOTE: See Section 102 of the Probate, Estates and Fiduciaries Code for the meaning of "first complete advertisement of the grant of letters."

(Effective June 26, 1995)

Rule 6.4.1. Filing Date for Particular Audit

Accounts to appear on a particular audit list must be filed not later than the date specified in the Court calendar.

(Effective June 26, 1995)

RULE 6.5. FILING WITH THE REGISTER OF WILLS (REPEALED)

Repealed effective April 30, 1992.

RULE 6.6. FILING WITH THE CLERK OF THE ORPHANS' COURT

Fiduciaries Accounts. The account of a personal representative, trustee, guardian of the estate of a minor or incompetent and custodian under the Uniform Gifts to Minors Act shall be filed with the Clerk of the Orphans' Court.

NOTE: Chapter 53 of the Probate Estates and Fiduciaries Code incorporates the Pennsylvania Uniform Transfers to Minors Act which replaces the prior Pennsylvania Uniform Gifts to Minors Act. Chapter 55 of the Code sets forth provisions relating to "incapacitated persons" which replace prior statutory provisions concerning "incompetents."

(Effective June 26, 1995)

RULE 6.7. FILING COPY WITH THE DEPARTMENT OF REVENUE

A copy of every account filed by the fiduciary of the estate of a deceased person who was an inmate of a State-owned mental hospital or a home, asylum or other institution, wherein said inmate was maintained in part by the Commonwealth, shall be filed with the Department of Revenue.

(Effective June 26, 1995)

**RULE 6.8. FILING COPY WITH THE
UNITED STATES VETERANS' ADMINISTRATION**

A copy of every account filed by the fiduciary of the estate of a veteran of any war or of the estate of a minor child of such veteran, to which veteran or minor benefits of compensation or insurance or other gratuity is payable by the United States Veterans' Administration or its successor, shall be filed with the United States Veterans' Administration or its successor.

(Effective June 26, 1995)

RULE 6.9. STATEMENT OF PROPOSED DISTRIBUTION

1.1 A fiduciary filing an account shall file a statement of proposed distribution, or, as local rules may prescribe, a request that distribution be determined by the Court or an auditor.

1.1 The statement of proposed distribution shall be filed at such place and time, shall be in such form and shall be accompanied by such papers, and shall be advertised or such notice thereof shall be given as local rules shall prescribe.

(Effective June 26, 1995)

Rule 6.9.1. Filing

A statement of proposed distribution shall be included in the account.

(Effective June 26, 1995)

Rule 6.9.2. Contents

The statement of proposed distribution shall provide a statement of any advance distributions and the total amount available for distribution. It shall also contain the names of all proposed distributees and the amount to be distributed to each. The statement shall describe the nature of the property to be distributed to each distributee and shall briefly state the reasons for each proposed award, for example, a reference to the applicable provision of the instrument or the statute authorizing the distribution.

(Effective June 26, 1995)

Rule 6.9.3. Real Estate

If real estate is to be distributed in kind, a proposed decree of distribution of real estate shall be prepared and filed with the statement of proposed distribution, in accordance with Section 3534 of the PEF Code. The real estate to be awarded shall be described in the same detail and with the same particularity as is commonly required to be included in deeds and shall recite how the title was acquired by the decedent. Such decrees of distribution of real estate shall be in the nature of confirmation of title in the respective distributees, and the Clerk is authorized to certify copies of such decrees, so approved, for purposes of recording such devolutions of real estate in the Office of the Recorder of Deeds in accordance with Section 3536 of the PEF Code.

(Effective June 26, 1995)

Rule 6.9.4. Additional Requirements

1.1 A petition for adjudication, prepared on a form provided by the Register of Wills, shall be filed with each account. The Court may permit the use of a petition other than one prepared on the form supplied, entirely typewritten, in which case it shall conform to the general plan of the prepared forms. The information required by the forms shall be furnished or a satisfactory explanation shall be offered in lieu thereof.

1.1 The accountant shall investigate all claims against the estate and indicate those recommended for payment and those rejected.

1.1 A typewritten copy of a holographic will of a decedent shall be attached to the petition for adjudication.

(Effective June 26, 1995)

RULE 6.10. OBJECTIONS TO ACCOUNTS AND STATEMENTS OF PROPOSED DISTRIBUTION

Objections to an account or statement of proposed distribution shall be made or filed at such place and time, shall be in such form, and such notice thereof shall be given as local rules shall prescribe.

(Effective June 26, 1995)

Rule 6.10.1. Objections to Accounts or Statements of Proposed Distribution

Objections to an account or statement of proposed distribution shall be reduced to writing, numbered consecutively, signed by the objector or his or her attorney, and each objection shall:

1.1 be specific as to description and amount;

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

1.1 set forth briefly the reason or reasons in support thereof.

(Effective June 26, 1995)

**Rule 6.10.2. Objections to Accounts or Statements
of Proposed Distribution - Filing -
Service of Copy**

1.1 Time of Filing. Objections may be filed as of course, with the Clerk, on any day prior to the session of Court when the account or statement of proposed distribution objected to is listed for audit, or at, but not later than, such session.

1.1 Service of Copy. A copy of the objections shall be served without delay after filing on accountant's attorney.

(Effective June 26, 1995)

**Rule 6.10.3. Objections to Accounts or Statements of
Proposed Distribution - Continued Audit**

When objections to an account or statement of proposed distribution have been filed, the audit of the account will be continued, upon call of the audit list, to a day fixed by the Court for auditing the account and hearing the objections.

(Effective June 26, 1995)

RULE 6.11. CONFIRMATION OF ACCOUNTS. AWARDS

1.1 No account shall be confirmed or statement of proposed distribution approved until an adjudication or decree of distribution is filed, in conformity with local rules, by the Court or by the clerk of the Court, expressly confirming the account or approving the statement of proposed distribution and specifying, or indicating by reference to the statement of proposed distribution, the names of the persons to whom the balance available for distribution is awarded and the amount or share awarded to each of such persons.

1.1 Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, any distribution made by a fiduciary shall be made at his own risk unless directed by an adjudication, decree of distribution or order of the Court.

(Effective June 26, 1995)

Rule 6.11.1. Small Estates

Petitions under §3102 of the PEF Code for distribution of small estates shall be prepared on forms provided by the Register of Wills. The Court may permit the use of a petition other than one prepared on the form supplied, entirely typewritten, in which case it shall conform to the general plan of the prepared forms. The information required by the forms shall be furnished or a satisfactory explanation shall be offered in lieu thereof.

(Effective June 26, 1995)

RULE 6.12. STATUS REPORT BY PERSONAL REPRESENTATIVE

[Pub. Note: The following is the text of Rule 6.12 and Status Report form as adopted effective January 1, 1984. On April 30, 1992, the Supreme Court issued Order No. 103, Supreme Court Rules Docket No. 1, which provides: "Existing Rule 6.12 requiring the filing of status reports by a personal representative is repealed and new Rule 6.12 is adopted in its place... These changes shall apply to decedents dying on or after July 1, 1992." See new Rule 6.12 following this Rule and Status Report form.]

1.1 The personal representative of each resident decedent dying after July 1, 1984, or counsel for the estate shall file a report of the status of the administration of the estate with the Register for transmission to the Court no later than the due date for filing the inheritance tax return for the estate or, if no inheritance tax return is required, nine months after the date of death. If the administration of the estate has not been concluded, similar reports shall be filed annually thereafter until the administration is complete. Each report shall indicate whether or not the administration of the estate has been concluded, the total value of assets that have been distributed to beneficiaries and the total amount paid to creditors or applied for funeral and expenses of administration and, if the administration has not yet been concluded, the estimated value of the assets still under administration. If the administration of the estate has been concluded, the report shall also indicate whether a final account of the administration of the estate has been filed with the Court and, if not, whether an account was stated to the parties in interest and whether they have approved the same.

1.1 If any required report is not filed when due, the Register shall notify counsel for the estate, if any, and shall periodically submit to the Court, for transmission to the Court Administrator of Pennsylvania, a list of all counsel of record in estates where the report has not been filed and more than sixty (60) days have elapsed since mailing of the notice of delinquency.

1.1 No fees shall be charged for filing the reports required by this rule.

(Effective June 26, 1995)

STATUS REPORT UNDER RULE 6.12

(Sample Form)
REGISTER OF WILLS OF _____ COUNTY
STATUS REPORT BY PERSONAL REPRESENTATIVE

NO. _____

Name of Decedent: _____ Soc. Sec. No. _____

Date of Death: _____

Name of Personal Representative(s): _____

Capacity (check one) Executor _____
 Administrator _____
 Administrator c.t.a. _____
 Administrator d.b.n. _____

Is the administration of the estate complete?

Yes ___ No ___

If "yes", how was the administration ended? (check one)

By Court accounting _____

By account stated to parties in interest _____

Did the parties release the personal representative? _____

Other (explain) _____

Total amount paid to date to creditors and for funeral and administrative expenses \$ _____

Total value of distributions to date to beneficiaries \$ _____

If administration is not complete, estimated value of assets still in administration \$ _____

I certify under penalty of perjury that the foregoing information is correct to the best of my knowledge, information and belief.

Date: _____, 19_ _____

(Print or type name below signature and indicate whether personal representative or counsel)

This report must be signed by the personal representative, or one of them when more than one, or by counsel for the estate.

RULE 6.12. STATUS REPORT BY PERSONAL REPRESENTATIVE

[Pub. Note: The following is the text of Rule 6.12 and Status Report form as adopted April 30, 1992, to apply to decedents dying on or after July 1, 1992. See the former Rule 6.12 and Status Report form preceding this Rule.]

1.1 Report of Uncompleted Administration. If administration of an estate has not been completed within two years of the decedent's death, the personal representative or counsel shall file at such time, and annually thereafter until the administration is completed, a report with the Register of Wills showing the date by which the personal representative or counsel reasonably believes administration will be completed.

1.1 Report of Completed Administration. Upon completion of the administration of an estate, the personal representative or his, her or its counsel shall file with the Register of Wills a report showing:

1.1.1.1 completion of administration of the estate;

1.1.1.1 whether a formal account was filed with the Orphans' Court;

1.1.1.1 whether a complete account was informally stated to all parties in interest;

1.1.1.1 whether final distribution has been completed; and

1.1.1.1 whether approvals of the account, receipts, joinders and releases have been filed with the Clerk of the Orphans' Court.

1.1 Form of Report. The report required by this Rule shall be in substantially the prescribed form.

1.1 No Fee. No fee shall be charged for filing the report required by this Rule.

1.1 Copy of Rule. Upon the grant of letters, the Register shall give a copy of this Rule to each personal representative and his, her or its counsel.

1.1 Failure to File a Report. After at least ten (10) days prior notice to a delinquent personal representative and counsel, the Clerk of the Orphans' Court shall inform the Court of the failure to file the report required by this Rule with a request that the Court conduct a hearing to determine what sanctions, if any, should be imposed.

(Effective June 26, 1995)

STATUS REPORT UNDER RULE 6.12

(Sample Form)

Name of Decedent: _____

Date of Death: _____

Will No. _____ Admin. No. _____

Pursuant to Rule 6.12 of the Supreme Court Orphans' Court Rules, I report the following with respect to completion of the administration of the above-captioned estate:

1. State whether administration of the estate complete:

Yes ____ No ____

2. If the answer is No, state when the personal representative reasonably believes that the administration will be complete:_____.

3. If the answer to No. 1 is Yes, state the following:

a. Did the personal representative file a final account with the Court? Yes ____ No ____

b. The separate Orphans' Court No. (if any) for the personal representative's account is

c. Did the personal representative state an account informally to the parties in interest? Yes
No _____

d. Copies of receipts, releases, joinders and approvals of formal and informal accounts may be filed with the Clerk of the Orphans' Court and may be attached to this report.

Date: _____

Signature

Name (Please type or print)

Address

() _____
Tel. No.

Capacity: __ Personal representative
__ Counsel for personal
representative

RULE 7. EXCEPTIONS

RULE 7.1. EXCEPTIONS

Exceptions shall be filed at such place and time, shall be in such form, copies thereof served and disposition made thereof as local rules shall prescribe.

(Effective June 26, 1995)

Rule 7.1.1. Exceptions - Generally

No exceptions shall be filed to decrees, adjudications, confirmations, or other decisions or orders of Court or in proceedings unless the right to except is expressly conferred by an Act of Assembly, by a general rule, or by a special order. All decrees, adjudications, confirmations or other decisions or orders of Court, other than those to which the exceptions are so allowed to be taken, shall be final and definitive.

NOTE: See Y.C.O.C.R. 2.3.1.

(Effective June 26, 1995)

Rule 7.1.2. Exceptions - Time and Place of Filing

1.1 Decrees, adjudications, confirmations or other decisions of the Court shall be confirmed absolutely, as of course, unless written exceptions thereto are filed within ten (10) days after the date the decision or order is filed.

1.1 If timely exceptions are filed by a party, any other party may file exceptions within ten (10) days after the date on which the first exceptions were filed. However, such exceptions shall in no event raise questions which could have been but were not raised by objections to an account or by claims presented in accordance with Y.C.O.C.R. 6.10.1.

1.1 Exceptions shall be filed with the Clerk.

(Effective June 26, 1995)

Rule 7.1.3. Exceptions - Form

Exceptions shall be in writing, numbered consecutively, signed by the exceptant or by his or her attorney, and each exception shall

1.1 be specific as to description and amount;

1.1 raise but one issue of law or fact, but if there are several exceptions to items included in or omitted from the adjudication relating to the same issue, all such exceptions shall be included in the same exception; and

1.1 set forth briefly the reason or reasons in support thereof.

(Effective June 26, 1995)

RULE 8. AUDITORS AND MASTERS
RULE 8.1. NOTICE OF HEARINGS.

An auditor or master shall give notice of hearings held by him in such manner and to such parties as local rules shall prescribe.

(Effective June 26, 1995)

Rule 8.1.1. Appointment

An auditor shall be appointed only when all parties in interest or their counsel consent thereto in writing. A master may be appointed by the Court on its own motion or upon the petition of the accountant or of any party in interest. All auditors and masters shall be members of the Bar of the Supreme Court of Pennsylvania.

(Effective June 26, 1995)

Rule 8.1.2. Notice of Hearings

Once appointed, an auditor shall schedule a hearing and give notice thereof to all parties in interest at least ten (10) days prior to the hearing. The notice of the auditor shall be given in accordance with Rule 5.1.

(Effective June 26, 1995)

Rule 8.1.3. Masters

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

(Effective June 26, 1995)

RULE 8.2. FILING OF REPORT

An auditor or master shall file his report within ninety (90) days after his appointment, unless, upon application, the Court extends the time; and, in default thereof, his appointment may be vacated and compensation and reimbursement for services and expenses denied.

(Effective June 26, 1995)

Rule 8.2.1. Where Filed

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

(Effective June 26, 1995)

RULE 8.3. FORM OF AUDITOR'S REPORT

An auditor's report shall include a statement of the questions involved, findings of fact, conclusions of law, and, if the account is approved by the auditor, it shall also expressly confirm the account and shall specify, or indicate by reference to the statement of proposed distribution, the names of the persons to whom the balance available for distribution is awarded and the amount or share awarded to each of such persons.

(Effective June 26, 1995)

RULE 8.4. FORM OF MASTER'S REPORT

A master's report shall state the number, times, dates and duration of the hearings before him, the number, extent and causes of any delays or continuances, and the basis of the Court's jurisdiction, and shall include a statement and discussion of the questions involved, findings of fact and conclusions of law, and specific recommendations.

(Effective June 26, 1995)

RULE 8.5. TRANSCRIPT OF TESTIMONY

The transcript of testimony taken before an auditor or master shall be filed with his report.

(Effective June 26, 1995)

RULE 8.6. NOTICE OF FILING REPORT

An auditor or master shall give notice of the filing of his report or of the intention to file his report in such manner and to such parties as local rules shall prescribe.

(Effective June 26, 1995)

Rule 8.6.1. Completion of Report; Notice

1.1 An auditor shall present his or her report to the Court within ninety (90) days of his or her appointment unless the Court upon request fixes another time.

1.1 When the auditor has prepared his or her report, he or she shall notify in writing the attorney for each party in interest of the date of the presentation thereof to the Court unless exceptions are filed as provided in Rule 8.7.1.

(Effective June 26, 1995)

RULE 8.7. CONFIRMATION OF REPORT

1.1 The report of an auditor shall be confirmed in such manner as local rules shall prescribe.

1.1 The report of a master shall not be approved until a decree is entered adopting its recommendations.

(Effective June 26, 1995)

Rule 8.7.1. Exceptions

Exceptions to the report may be filed with the auditor within ten (10) days after the receipt of the notice required by Rule 8.6.1. If exceptions are filed, the auditor shall reconsider his or her report and present it to the Court with the exceptions attached. Immediately upon filing the report, the auditor shall give notice thereof to the attorney for each party in interest. Thereafter, no exceptions may be filed without leave of Court for good cause shown. When exceptions are filed by the auditor or by leave of Court for good cause shown, the Court may schedule the matter for argument.

(Effective June 26, 1995)

Rule 8.7.2. Confirmation

Following the notice and exception procedures of Rules 8.6.1 and 8.7.1, an auditor's report and any exceptions thereto shall be filed with the Court. If no exceptions have been filed with the auditor, it will be confirmed absolutely.

(Effective June 26, 1995)

RULE 8.8. SECURITY FOR EXPENSES AND FEES

An auditor or master, the accountant or any party in interest may apply to the Court at any time for leave to require security for the payment of the auditor's or master's expenses and fees, and, when such leave is granted, the auditor or master may decline to proceed until security is entered.

(Effective June 26, 1995)

Rule 8.8.1. Amount of Compensation

An auditor or master shall submit the question of the amount of the auditor's or master's compensation to the attorneys of record. Where agreement cannot be reached, the auditor or master shall make a report thereof to the Court, which shall include a statement in justification of his or her claim. The report may be interlocutory in nature and may be submitted at any time after the services have been performed.

(Effective June 26, 1995)

RULE 9. OFFICIAL EXAMINERS

RULE 9.1. APPOINTMENT OF OFFICIAL EXAMINERS

The Court by general rule or special order may appoint an official examiner or examiners who shall examine the assets held by any fiduciary in his or her capacity whenever directed by the Court.

(Effective June 26, 1995)

Rule 9.1.1. Rules Pertaining to Official Examiners

Rules pertaining to auditors shall extend to official examiners insofar as applicable.

(Effective June 26, 1995)

RULE 10. REGISTER OF WILLS

RULE 10.1. PROCEDURE AND FORMS

The practice, procedure and forms used before a Register of Wills shall be in substantial conformity with the practice, procedure and forms approved by the Supreme Court of this Commonwealth or, in the absence thereof, the practice, procedure and forms approved by the local Orphans' Court Division.

NOTE: The texts of the recommended forms follow the Orphans' Court Rules in the Pennsylvania Rules of Court Desk Copy and in 42 Pa.C.S.A.

(Effective June 26, 1995)

RULE 10.2. APPEALS FROM THE REGISTER OF WILLS

Appeals from judicial acts or proceedings of the Register of Wills and the practice and procedure with respect thereto shall be as prescribed by local rules.

(Effective June 26, 1995)

Rule 10.2.1. Form of Appeal

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

- 1.1 the nature of the proceedings before the Register;
- 1.1 the basis for the appeal, including the facts or circumstances upon which it is based;
- 1.1 the names and the addresses of all parties in interest, including those who have not been parties of record.

(Effective June 26, 1995)

Rule 10.2.2. Citation

Upon allowance of the petition, a citation shall be issued by the Court, to which an answer must be filed on a date set forth in the citation, 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. The Court may then schedule the matter for hearing. The citation and a copy of the petition shall be served by the party taking the appeal in the manner provided by the Probate, Estates and Fiduciaries Code §765.

(Effective June 26, 1995)

Rule 10.2.3. Disposition - No Answer

If no answer is filed, upon proof of service of the citation, the Court may grant the relief requested.

(Effective June 26, 1995)

Rule 10.2.4. Inheritance Tax Appeals

The practice and procedure in inheritance tax appeals shall be governed insofar as appropriate by the foregoing rules.

NOTE: See 72 App., 72 Pa.C.S.A. §§2176 and 2186.

(Effective June 26, 1995)

RULE 11. JURY TRIALS

RULE 11.1. SELECTION OF JURORS

When any issue is to be tried by a jury in the Orphans' Court Division, a request shall be made to the Trial or Civil Division of the Court of Common Pleas of the county for a panel of jurors. A jury shall be selected from this panel and, if additional jurors are required, they shall be similarly obtained on request to the Trial or Civil Division of the Court of Common Pleas.

(Effective June 26, 1995)

RULE 11.2. CONDUCT OF A TRIAL

The selection of a jury, the conduct of a trial and motions after trial shall conform to the practice and procedure in jury trials in the local Court of Common Pleas.

(Effective June 26, 1995)

RULE 12. SPECIAL PETITIONS

RULE 12.1. FAMILY EXEMPTION

- 1.1 A petition for a family exemption shall set forth:
- 1.1.1.1 facts establishing a prima facie right of the petitioner to the exemption;
- 1.1.1.1.1 if the exemption is claimed from real estate, a request for the appointment of two appraisers to appraise the same;
- 1.1.1.1 a description of the property claimed; and
- 1.1.1.1 whether allowance of the claim prior to the audit or confirmation of the account is requested.

1.1 The manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be prescribed by local rules.

1.1 The Court may, at the request of the petitioner, award in distribution, specific real estate included in the account in satisfaction of, or on account of, the family exemption without the necessity of compliance with the procedure outlined in subparagraphs (a) and (b) of this Rule, provided, however, that all parties in interest agree in writing to the valuation at which the real estate is to be awarded.

(Effective June 26, 1995)

Rule 12.1.1. Additional Contents of Petition

A petition for the family exemption shall set forth, in addition:

- 1.1 the name, residence, and date of death of the decedent;
- 1.1 the name, address, and relationship of the petitioner to the decedent, and whether the petitioner was a member of the same household as the decedent on the date of his or her death;
- 1.1 whether the decedent died testate or intestate; whether, when and to whom letters were granted; and the names, relationship, and addresses of those interested in the estate; and
- 1.1 the location, description and value of the property claimed.

NOTE: See Pa.O.C. Rule 3.5.

(Effective June 26, 1995)

Rule 12.1.2. Exemption Claimed in Personalty - Appraisals

No appraisal shall be required when the exemption is claimed from cash, bank or savings and loan deposits, listed securities, or from any other personalty at valuations agreed upon by all parties in interest. When the exemption is claimed from other personalty, the petitioner shall attach a sworn appraisal of one qualified, disinter-ested person; or in the alternative, inventory values may be used.

(Effective June 26, 1995)

Rule 12.1.3. Exemption Claimed in Realty - Appraisals

No appraisal shall be required when the exemption is claimed from realty at a valuation agreed upon by all parties in interest. When appraisals of realty from which the exemption is claimed are necessary, petitioner shall request the appointment and the Court shall appoint two appraisers who shall file their appraisals within thirty (30) days after their appointment.

(Effective June 26, 1995)

Rule 12.1.4. Notice

Any party filing a petition for the exemption shall give at least ten (10) days prior notice of the filing to those interested in the estate who may be adversely affected by the grant of the petition. Such notice shall be by first class mail, and an affidavit of such notice shall be filed within ten (10) days of mailing. The notice shall state that unless objections are filed the petition may be granted by the Court. In the case of the exemption claimed in real estate, the notice shall be by certified mail and shall include a copy of the petition.

(Effective June 26, 1995)

Rule 12.1.5. Objections

1.1 In the case of a distribution without petition and confirmation other than as provided in Rule 12.1.7, the personal representative shall file an account and petition for adjudication; and in that event, objections to the allowance of the exemption or the appraisement may be filed by any person adversely affected thereby.

1.1 When the procedure is by petition, questions as to the appraisement or allowance, or both, may be raised only by objections filed with the Clerk on or before the date specified in the notice.

(Effective June 26, 1995)

Rule 12.1.6. Final Decree

When the exemption is sought by petition, the exemption may be obtained by submitting to the Court proof of service of the notice and a form of final decree, if no objections are filed.

NOTE: See PEF Code §§3121 to 3126, inclusive.

(Effective June 26, 1995)

Rule 12.1.7 Where Petition Not Needed

In addition to the procedures outlined in Rule 12.1.5, no petition shall be required when the exemption is claimed as a part of a Small Estates Petition under Section 3121 et seq of the PEF Code, or where the claimant is the sole beneficiary of the estate.

(Effective June 26, 1995)

RULE 12.2. ALLOWANCE TO SURVIVING SPOUSE OF INTESTATE

1.1 When no account is filed and all or part of the spouse's statutory allowance is claimed from real estate, the claim shall be presented by petition, which shall set forth

1.1.1.1 facts establishing a prima facie right of the spouse to the allowance;

1.1.1.1 a description of the real estate; and

1.1.1.1 a request for the appointment of two appraisers to appraise the real estate.

1.1 The manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof shall be prescribed by local rules.

1.1 The Court may, at the request of the surviving spouse, award specific real estate in satisfaction of, or on account of, the spouse's statutory allowance without compliance with the procedure outlined in subparagraphs (a) and (b) of this Rule if all parties in interest agree in writing that the surviving spouse is entitled to the allowance and to the valuation at which the real estate is to be awarded.

(Effective June 26, 1995)

Rule 12.2.1. Additional Contents of Petition

A petition for the allowance to the surviving spouse of an intestate shall also set forth the information required in a petition for the family exemption under Y.C.O.C.R. 12.1.1 insofar as is appropriate. Such a petition shall have a copy of the inventory attached to it.

(Effective June 26, 1995)

Rule 12.2.2. Notice; Objections; Final Decree

1.1 The necessity of procuring appraisals and matters relating thereto shall be governed by Y.C.O.C.R. 12.1.2 and 12.1.3.

1.1 Any party filing a petition for the allowance shall give notice of the filing (including a copy of the petition) and notice of the date fixed by the Court (if known) for confirmation to those interested in the estate who may be adversely affected by the grant of the petition. If the appraisers have been appointed, additional notice shall be given after the appraisals have been filed together with a copy of the appraisals. The final notice shall include a statement that the setting apart of the property will be requested. This statement shall further state that unless objections are filed, the request to set the property aside may be granted by the Court at a stated time not less than ten (10) days from the date of the notice, or the last advertisement (if applicable) thereof.

1.1 The filing of objections and entry of a final decree shall be as set forth in Y.C.O.C.R. 12.1.5 and 12.1.6.

NOTE: See PEF Code §§2110 and 2111.

(Effective June 26, 1995)

**RULE 12.3. REVOCATION, VACATING AND EXTENSION OF
TIME FOR FILING OF SURVIVING SPOUSE'S ELECTION**

1.1 A petition to revoke or vacate an election of a surviving spouse to take under or against the will and other conveyances of the decedent shall set forth

1.1.1.1 the date of the decedent's death, whether his will has been probated and, if so, a reference to the place of recording;

1.1.1.1 the name and capacity of the fiduciary of the decedent's estate, if any, and a reference to the record of his appointment;

1.1.1.1 the names, addresses and relationship, if known, of those interested in the estate and the extent of the interest of each of them;

1.1.1.1 the names of the parties in interest who have consented to the revocation or vacating of the election, and the names of those who have not consented and the reason, if any, for so refusing;

1.1.1.1 a description and valuation of the decedent's real and personal property affected by the election;

1.1.1.1 the date and manner of executing the election desired to be revoked or vacated; whether the same has been recorded, registered or filed, and, if so, the date and place thereof;

1.1.1.1 whether the surviving spouse has made or executed and delivered at any place an election contrary to that desired to be revoked or vacated and whether that election has been recorded, registered or filed, and, if so, the date and place thereof;

1.1.1.1 the facts relied upon to justify the revocation or vacating of the election; and

1.1.1.1 a request for a citation upon the parties in interest who have not joined in the petition or who have not consented thereto to show cause why the election should not be revoked or vacated.

1.1 A petition for the extension of the time in which the surviving spouse may file an election to take against the will and other conveyances shall be filed at such place and time and shall be in such form as local rules may prescribe.

(Effective June 26, 1995)

Rule 12.3.1. Extension of Time - Contents of Petition

A petition for extension of time in which the surviving spouse may file an election to take against the will shall set forth the facts relied upon to justify the extension sought.

NOTE: See Pa.O.C.R. 3.5.

(Effective June 26, 1995)

Rule 12.3.2. Extension of Time - Practice and Procedure

The petition shall be filed with the Clerk, and the petitioner shall thereafter give ten (10) days notice to all persons adversely affected who do not join in the petition. The notice shall specify the extension requested. In the absence of any objections, the Court may enter an appropriate decree upon presentation of proof of service.

NOTE: See PEF Code §2511.

(Effective June 26, 1995)

**Rule 12.4. Appointment of a Guardian Ad Litem
or Trustee Ad Litem.**

1 (a) On petition of the accountant or any party in interest, or upon its own motion, the Court may appoint: (1) a guardian ad litem to represent a minor or an incompetent not represented by a guardian or (2) a trustee ad litem to represent an absentee, a presumed decedent, or unborn or unascertained persons not already represented by a fiduciary, unless the Court considers that the interests of such persons are adequately represented.

(b) The same person may be appointed as guardian ad litem and trustee ad litem when the interests represented are not conflicting. Application for such an appointment may be made in one petition.

(c) The petition shall set forth

1.1.1.1 the name, age and address of the minor or incompetent for whom a guardian ad litem is to be appointed and his relationship, if any, to any party in interest and to the decedent or settlor; and

1.1.1.1 the interest of the minor, incompetent, absentee, presumed decedent, or the unborn or unascertained interests to be represented by a guardian ad litem or a trustee ad litem, the provisions of any instrument creating such interests, the necessity for such interests being represented and the proceedings in which they are to be represented.

(d) A decree appointing a guardian ad litem or a trustee ad litem shall specify the period or proceedings during which he or she shall act as such.

(Effective June 26, 1995)

**RULE 12.5. APPOINTMENT OF A GUARDIAN FOR
THE ESTATE OR PERSON OF A MINOR**

1.1 A petition for the appointment of a guardian for the estate or person of a minor shall be filed by the minor, if over fourteen years of age and, if under such age, by his parent or parents, the person with whom the minor resides or by whom he is maintained or by any person as next friend of the minor.

1.1 The petition shall set forth

1.1.1.1 the name, address and age of the minor, and the names and addresses of his parents, if living;

1.1.1.1 the name, address and relationship to the minor of the petitioner, if the petition is not filed by the minor;

1.1.1.1 that the minor's parents consent to the petition, if it is not filed by them, or the reason why they do not consent;

1.1.1.1 the necessity of the appointment of a guardian and that the minor has no guardian or that a guardian already appointed has died or has been discharged or removed by the Court, together with the date of such death, discharge or removal and a reference to the Court record of such discharge or removal;

1.1.1.1 the name, address and age of the proposed guardian and his relationship to the minor, if any;

1.1.1.1 the nature of any interest of the proposed guardian adverse to that of the minor including inter alia a reference to any estate in which the minor is interested and in which the proposed guardian is a fiduciary or surety or employee of a fiduciary or surety therein;

1.1.1.1 if the petition is for the appointment of a guardian of the person, the religious persuasion of the parents of the minor and of the proposed guardian;

1.1.1.1 if the petition is for the appointment of a guardian of the estate, an itemization of the assets of such estate, their location, approximate value and income, if any;

1.1.1.1 if the minor is entitled to receive any money as a party to any action or proceeding in any Court, a reference to the Court record and the amount to which the minor is entitled; and

1.1.1.2 that notice has been given to the United States Veterans' Administration or its successor, if the minor is the child of a veteran and insurance or other gratuity is payable to the minor by the United States Veterans' Administration, or its successor.

1.1 The proposed guardian's written consent to the appointment shall be attached to the petition.

1.1 If the appointment of the same person is requested as guardian of the estates or persons of several minors who are children of the same parents, a single petition shall be filed for such appointment.

1.1 If the minor is over the age of fourteen, his appearance in Court at the time of the presentation of the petition shall be governed by local rule.

(Effective June 26, 1995)

Rule 12.5.1. Appearance in Court - Minor Over Fourteen

If the minor is over the age of fourteen years, the minor shall appear at the presentation of the petition and nominate the guardian in open Court. If the minor is unable to appear in person, the reasons for the minor's absence shall be set forth in the petition.

Note: See PEF Code § 5113.

(Effective June 26, 1995)

Rule 12.5.2. Additional Exhibits

1.1 The following consents shall be attached to the petition:

1.1.1.1 The written consent of the parents or surviving parent of the minor to the appointment of a guardian for the minor's estate or person. If both parents are deceased, the 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.

1.1.1.1 The written consent of the minor's spouse if the minor is married.

1.1.1.1 If the proposed guardian is an individual, his or her written consent shall include a statement of:

1.1.1.1.1.1 the proposed guardian's occupation;

1.1.1.1.1.1 that the individual speaks, reads and writes the English language;

1.1.1.1.1.1 that the individual is a citizen of the United States of America;

1.1.1.1.1.1 that the individual is not a fiduciary, or an officer or employee of a corporate fiduciary, of an estate in which the minor has an interest; nor a surety, or an officer or employee of a corporate surety, of such a fiduciary; and that the individual has no interest adverse to the minor.

1.1.1.1 The consent of a proposed corporate fiduciary 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.

1.1.1.1 If consent is not obtained, the petition shall set forth the reasons for lack of consent and the attorney for petitioners shall give notice of the hearing on the petition as the Court directs.

1.1 If any part of the minor's estate was obtained as a result of litigation or the settlement of litigation in a Court of record, a copy of the award or of the decree approving the settlement and distribution of the proceeds of the suit shall be attached to the petition.

(Effective June 26, 1995)

Rule 12.5.3. Small Estates of Minors

1.1 A petition for the award of an estate of a minor without the appointment of a guardian or the entry of security shall contain the following:

1.1.1.1 a statement that the net value of the entire real and personal estate of the minor does not exceed the statutory limitations; and

1.1.1.1 the name of a bank or insured savings and loan association with at least one office in York County as the suggested depository.

1.1 In the absence of satisfactory reasons for doing otherwise, the Court shall direct that any cash be deposited in an interest bearing account in such a depository in the name of the minor or the name of a natural guardian of the minor. In all cases, the account shall be expressly restricted by means of a notation on the records of the depository that no withdrawals may be made from the account until the minor attains the age of majority, except as authorized by a prior order of the Court. Further, evidence of the marking of the account to indicate the restriction shall be filed promptly as part of the record.

1.1 Any authorization by the Court given to a parent or other person or institution maintaining the minor to execute a receipt, deed, mortgage or other instrument affecting real or personal property of the minor within the statutory limit shall be conditioned on the deposit of the proceeds therefrom in an account restricted as in (b) above.

NOTE: See PEF Code §§5101 to 5103, inclusive.

(Effective June 26, 1995)

Rule 12.5.4. Allowances From Minor's Estate

A petition for an allowance from a minor's estate shall set forth:

- 1.1 the manner of the guardian's appointment and qualification and the dates thereof;
- 1.1 the age and residence of the minor, whether his or her parents are living, the name of the person with whom he or she resides, and the name and age of his or her spouse and children, if any;
- 1.1 the value of the minor's estate, real and personal, and his or her annual income;
- 1.1 the circumstances of the minor, whether employed or attending school; whether a parent or other person charged with the duty of supporting the minor is living, the financial condition and income of the person and why the person is not discharging his or her duty of support; and whether there is adequate provision for the support and education of the minor, his or her spouse and children;
- 1.1 the date and amount of any previous allowance by the Court; and
- 1.1 the financial requirements of the minor and his or her family, in detail, and the circumstances making the allowance necessary.

NOTE: See PEF Code §5164.

(Effective June 26, 1995)

RULE 12.6. APPOINTMENT OF A TRUSTEE

1.1 A petition for the appointment of a trustee may be filed by any party in interest and shall set forth

1.1.1.1 the reason for filing the petition;

1.1.1.1 the provisions of the instrument creating the trust;

1.1.1.1 the general character, location and value of the trust property;

1.1.1.1 the names, addresses and relationships of all parties in interest and that those who have not joined in or consented to the petition have been given notice of the intention to file the petition, or the reason for failing to give such notice; and

1.1.1.1 the name and address of the proposed trustee and his or her relationship, if any, to any party in interest and his or her interest, if any, in the trust.

1.1 The proposed trustee's written consent to the appointment shall be attached to the petition.

(Effective June 26, 1995)

Rule 12.6.1. Exhibit to Petition

A copy of the instrument creating the trust shall be attached as an exhibit to the petition.

(Effective June 26, 1995)

RULE 12.7. DISCHARGE OF A FIDUCIARY AND SURETY

1.1 Account Previously Filed. A petition for the discharge of a fiduciary and his surety, or of the surety alone, subsequent to an account having been filed and confirmed, shall set forth

1.1.1.1 the nature of the fiduciary capacity;

1.1.1.1 the date and a reference to the record of the fiduciary's appointment;

1.1.1.2 the date of filing the fiduciary's account and that it has been confirmed absolutely; and

1.1.1.1 that the entire estate has been distributed to the creditors and parties entitled thereto and that no other property belonging to the estate has been received or remains to be accounted for by the fiduciary.

1.1 Account Annexed. In lieu of filing and advertising an account, a personal representative who is distributing an estate under the provisions of Section 3531 of the Probate, Estates and Fiduciaries Code [20 P.S. §320.731], or the guardian of the estate of a minor who has attained his or her majority and whose gross estate does not exceed the statutory limitation of an administration without appointment of a guardian, may annex his account to the petition for discharge with the information required above, modified to indicate any previous distribution and to suggest the proper distribution of any balance on hand.

(Effective June 26, 1995)

Rule 12.7.1. Contents of Petition for Discharge

In the case of a guardian of the estate of a minor who has attained the age of majority and whose gross estate does not exceed the statutory limitation for an administration without appointment of a guardian, the petition shall aver that there are no known unpaid creditors and that the former minor has consented to the petition, or the petition shall aver a satisfactory explanation of the failure of the minor to consent.

(Effective June 26, 1995)

Rule 12.7.2. Form of Petition for Discharge - Small Estates

A petition for discharge of a personal representative or his or her surety under the provisions of PEF Code §3531 shall conform insofar as appropriate to the requirements for a petition under Y.C.O.C.R. 6.11.1.

(Effective June 26, 1995)

RULE 12.8. PARTITION

A petition for partition shall set forth:

1.1 the date of the decedent's death and whether he or she died testate or intestate, in whole or in part;

1.1 a description, giving the size and location, of the property to be partitioned, the liens and charges to which it is subject and the rents due from tenants thereof, and that the property has not been partitioned or valued for partition;

1.1 the names, addresses and relationship of those interested in the land to be partitioned, the extent of the interest of each of such persons, and, if such interest is created by a recorded deed or will, a reference to such record; and

1.1 a request for citation upon the parties in interest who have not joined as petitioners to show cause why an inquest in partition should not be granted.

(Effective June 26, 1995)

RULE 12.9. PUBLIC SALE OF REAL PROPERTY

1.1 A petition for the public sale of real property shall set forth the reason for filing the petition, a description, stating the size and location of the property to be sold, and the liens and charges to which it is subject.

1.1 Public notice of the sale shall be given as required by law and as may be further required by the Court by general rule or special order.

(Effective June 26, 1995)

**Rule 12.9.1 Additional Contents of
Petition for Public Sale**

1.1 Public Sale by Personal Representative. A petition by a personal representative to sell real property at public sale shall set forth, in addition:

1.1.1.1 how title was acquired and reference to the document of acquisition;

1.1.1.1 the name, residence and date of death of the decedent, whether the decedent died intestate or testate, and the date of the grant of letters;

1.1.1.1 that the personal representative is not otherwise authorized to sell or is denied the power to sell by will, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor;

1.1.1.1 if an inventory has been filed, the value of the real property shown in the inventory or, if no inventory has been filed, the value of the property based upon an independent appraisal;

1.1.1.1 if the personal representative entered bond with the Register, the name of the surety and the amount of the bond;

1.1.1.1 the names and relationships of all parties in interest; a brief description of their interests; whether any of them is a minor, an incapacitated person, or a decedent, and if so, the name of any fiduciary and a reference to the record of his or her appointment as well as the age of any minor and the names of his or her next of kin;

1.1.1.1 a legal description of the real property to be sold, the improvements thereof, by whom it is occupied, its rental value, if known, and its current tax assessment and tax parcel number; and

1.1.1.1 sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

1.1 Public Sale by Trustee. A petition by trustee to sell real property at public sale shall conform insofar as appropriate to the requirements for a petition under Y.C.O.C.R. 12.9.1(a), and, in addition, shall set forth:

1.1.1.1 a reference to the relevant provisions of the controlling instrument;

1.1.1.1 that the trustee is not otherwise authorized to sell or is denied the power to sell by the trust provisions, or that it is desirable that the sale have the effect of a judicial sale, stating the reasons therefor; and

1.1.1.2 sufficient facts to enable the Court to determine that the sale is in the best interests of the trust and its beneficiaries.

1.1 Public Sale by Guardian. A petition by a guardian to sell real property at public sale shall conform insofar as appropriate to the requirements for a petition under Y.C.O.C.R. 12.9.1(a) and 12.9.1 (b), and, in addition, shall set forth:

1.1.1.1 the age of the minor or the date of adjudication of incapacity;

1.1.1.1 the names of the minor's or incapacitated person's next of kin, and the notice given to them of the presentation of the petition;

1.1.1.1 the nature and the extent of the interests of the minor or incapacitated person and of any others in the real property; and

1.1.1.1 sufficient facts to enable the Court to determine that the sale is in the best interests of the minor or the incapacitated person.

NOTE: For sale by personal representative and generally, see PEF Code §§3351 and 3353 to 3355, inclusive. For sale by trustee, see PEF Code §7133. For sale by guardian of incapacitated person see PEF Code §5521.

(Effective June 26, 1995)

Rule 12.9.2. Exhibits to Petition

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

- 1.1 a copy of the will, deed, or decree by which the fiduciary was appointed; and
- 1.1 any consents or joinders of parties in interest, and the names and a copy of the notice which has been given to those parties who do not consent or join; and
- 1.1 consent by any mortgagee whose lien would otherwise not be discharged by the sale.

(Effective June 26, 1995)

**Rule 12.9.3. Notice and Confirmation of
Public Sale: Additional Security**

1.1 After allowance of the petition, notice of the date, time and place of the sale shall be given to all parties in interest.

1.1 Returns of public sale of real property for the purpose of approval or confirmation by the Court shall be by affidavit setting forth:

1.1.1.1 the notice given;

1.1.1.1 the price obtained; and

1.1.1.1 the name and address of the purchaser, and an averment that the purchaser was the highest bidder.

1.1 Notice of the filing of the return of the public sale shall be given to all parties in interest. If no objections are filed within ten (10) days of the giving of the notice, the Court may enter a decree confirming the sale and fixing or excusing the entering of additional security, if required.

NOTE: See Pa.O.C. Rule 5.4.

(Effective June 26, 1995)

**RULE 12.10. PRIVATE SALE OF REAL PROPERTY
OR OPTIONS THEREFOR**

1.1 A petition for the private sale or exchange of real property, or for the grant of an option for any such sale or exchange shall set forth

1.1.1.1 the information required in a petition for the public sale of real property; and

1.1.1.1 the name and address of the proposed purchaser and the terms of the proposed sale, exchange or option, the consideration therefor, and that this is more than can be obtained at a public sale.

1.1 The petition shall be supported by the affidavits of at least two competent persons setting forth that they have inspected the real property to be sold, exchanged or optioned and, in the case of an exchange, the property to be received, that they are acquainted with the value of real estate in the locality of such property, that they are not personally interested in the proposed sale, exchange or option, and that in their opinion the proposed consideration is more than can be obtained at public sale.

(Effective June 26, 1995)

**Rule 12.10.1. Additional Requirements for Petition
for Private Sale, Exchange, or Granting of Options**

A petition by a fiduciary for the sale of real property at a private sale, or for the exchange or granting of an option for the sale or exchange of real property, shall conform insofar as appropriate to the requirements for a petition under Y.C.O.C.R. 12.9.1.

NOTE: See Note to Y.C.O.C.R. 12.9.1.

(Effective June 26, 1995)

Rule 12.10.2. Exhibits to Petition

In addition to the exhibits required under Y.C.O.C.R. 12.9.2 and the affidavits required by Pa.O.C. Rule 12.10(b), there shall be attached to the petition the following exhibits:

1.1 a copy of the proposed agreement of sale, exchange or option; and

1.1 the consents of any party in interest who has not joined in the petition insofar as they are obtainable.

(Effective June 26, 1995)

Rule 12.10.3. Notice: Confirmation

After filing of the petition, notice of the sale shall be given to any party in interest who has not joined in or consented to the petition. The notice shall state that if no objections are filed within ten (10) days of the giving of such notice, the Court may enter a decree authorizing the sale upon the terms contained in the petition and fixing or excusing the entering of additional security, if required.

(Effective June 26, 1995)

**Rule 12.10.4. Petition to Fix or Waive
Additional Security**

1.1 Form of Petition. A fiduciary not otherwise excused from the filing of a bond who sells realty, either publicly or privately, without a Court order directing the sale shall, before receiving the proceeds of the sale, present a petition to the Court setting forth:

1.1.1.1 the date of death of the decedent;

1.1.1.1 the date and authority for the petitioner's appointment as fiduciary;

1.1.1.1 the amount of bond or bonds filed by petitioner, the date they were filed, and the name or names of the surety or sureties;

1.1.1.1 the total valuation of any other personalty or realty (stated separately) held by him or her as fiduciary;

1.1.1.1 a description of the real property to be sold sufficient to identify it, the name of the purchaser, the amount of the consideration to be paid; and

1.1.1.1 a prayer for an order fixing the amount of additional security or excusing the entering of additional security.

1.1 Surety on Additional Bond. The surety on any additional bond, except for cause shown, shall be the same as on the original bond.

NOTE: See PEF Code §§3351 and 7141.

(Effective June 26, 1995)

RULE 12.11. MORTGAGE OR LEASE OF REAL PROPERTY

A petition to mortgage or lease real property shall set forth

- 1.1 the information required in a petition for the public sale of real property, as nearly as may be;
and
- 1.1 the name of the proposed mortgagee or lessee and the terms of the proposed mortgage or lease.

(Effective June 26, 1995)

**Rule 12.11.1. Mortgage or Lease of Real Property;
Additional Requirements**

1.1 Contents of Petition. A petition to mortgage or lease real property shall conform insofar as appropriate to the requirements for a petition under Y.C.O.C.R. 12.9.1, and, in addition, shall set forth:

1.1.1.1 the amount and terms of the proposed mortgage loan or lease including the amount of any regularly scheduled payments; and

1.1.1.1 facts sufficient to enable the Court to determine that the proposed mortgage or lease should be approved, including the income of the mortgagor during each regular payment period, the amount of his or her other debt payments during each such period, and the loan to value ratio of the proposed mortgage.

1.1 Exhibits. There shall be attached to the petition the exhibits required under Y.C.O.C.R. 12.9.2 and 12.10.2(b).

1.1 Notice, Confirmation and Security. After allowance of the petition, the requirements of Y.C.O.C.R. 12.10.3 shall govern.

(Effective June 26, 1995)

RULE 12.12. INALIENABLE PROPERTY

A petition under Chapter 83 of the Probate, Estates and Fiduciaries Code to sell real property at public or private sale or to mortgage real property shall set forth, in addition to the facts required to be set forth by that Act:

1.1 the names of all parties in interest who have not joined as petitioners, and their addresses, if known; and

1.1 if the petition is for the public or private sale of real property subject to a life estate with remainder over and the real property is not held in trust, the petition shall request the appointment of a named trustee to make the sale and hold the proceeds in trust.

(Effective June 26, 1995)

**Rule 12.12.1. Additional Requirements for Petition
Under Chapter 83 of the PEF Code**

(a) A petition by a fiduciary for the sale, mortgage, lease or exchange of real property shall conform insofar as appropriate to the requirements for a petition under Pa.O.C. Rules 12.9 and 12.11, and these rules thereunder.

(b) If the petitioner is not a fiduciary, the petition shall set forth specifically the information required under Y.C.O.C.R. 12.9.1(a)(1), and (6) and (7).

(c) When the petition is for a private sale or exchange, there shall be attached to the petition insofar as appropriate the exhibits required under Y.C.O.C.R. 12.10.2.

(d) All petitions shall set forth the limitations from which title is to be freed, and in the case where title is subject to an interest or interests held by one or more classes, some or all of the members of which are unascertained or not in being, the petition shall set forth the information required under Pa.O.C. Rule 12.6(a)(5) and shall have attached thereto the proposed trustee's written consent to the appointment.

(e) The practice and procedure with respect to notice, confirmation and security shall be governed insofar as appropriate by the requirements of Y.C.O.C.R. 12.9.3, 12.10.3 and 12.10.4.

(Effective June 26, 1995)

RULE 12.13. DESIGNATION OF A SUCCESSOR CUSTODIAN

A petition for the designation of a successor custodian under the Pennsylvania Uniform Gifts to Minors Act* shall set forth as far as practicable the information required in a petition for the appointment of a guardian of the estate of a minor.

*NOTE: The Pennsylvania Uniform Gifts to Minors Act is now Chapter 53 of the Probate, Estates and Fiduciaries Code. [Pub. Note: Former Chapter 53, Pennsylvania Uniform Gifts to Minors Act, was repealed by Act 1992, Dec. 16, P.L. 1163, No. 152, §10 and replaced with Chapter 53, Pennsylvania Uniform Transfers to Minors Act. The heading of Title 20 was amended by Act 1974, Dec. 10, P.L. 816, No. 271 §5 from "Probate, Estates and Fiduciaries Code" to "Decedents, Estates and Fiduciaries."]

(Effective June 26, 1995)

RULE 12.14. CONFIRMATION OF APPOINTMENT

1.1 Where a trustee is appointed by or pursuant to a trust instrument, confirmation by the Court of such appointment may be obtained on petition which shall set forth

1.1.1.1 the reason for filing the petition; and

1.1.1.1 the pertinent provisions of the instrument creating the trust and providing for the appointment of the trustee.

1.1 There shall be attached to the petition

1.1.1.1 a copy of the trust instrument duly certified by counsel to be a true and correct copy;
and

1.1.1.1 the designated trustee's written consent to serve.

(Effective June 26, 1995)

RULE 13. DISTRIBUTION - SPECIAL SITUATIONS

RULE 13.1. REPRESENTATION BY COUNSEL

A foreign distributee or claimant may be represented by counsel who possesses a valid duly authenticated power of attorney executed by the distributee or claimant.

(Effective June 26, 1995)

Rule 13.1.1

The power of attorney shall be filed in the office of the Clerk and a copy thereof served upon the fiduciary.

(Effective June 26, 1995)

RULE 13.2. EXISTENCE AND IDENTITY

If it appears that the decedent may have heirs in a foreign country but their location, existence or identity is unknown, the fiduciary shall notify the consulate of the country prior to audit of such facts as the fiduciary has which led him to the belief that the decedent may have had heirs in the country in question.

(Effective June 26, 1995)

Rule 13.2.1

A copy of the notice shall be attached to the Petition for Adjudication and the fiduciary shall provide a report at the audit as to any information resulting from such notice.

(Effective June 26, 1995)

RULE 13.3. REPORT BY FIDUCIARY

Whenever the existence, identity or whereabouts of a distributee is unknown or it appears that a distributee may not have the actual benefit, use, enjoyment or control of the money or other property if awarded to him or the Court is requested to withhold distribution or to make an award other than to the distributee or his nominee, the fiduciary or his counsel shall submit to the Court or auditor, as the case may be, a written report outlining the investigation made by him and the facts relevant thereto. The report shall be in such form and may be filed at such place and time as shall be prescribed by general rule or special order of the local Orphans' Court.

(Effective June 26, 1995)

Rule 13.3.1

The report shall be submitted with the schedule of distribution and shall include, substantially, the following:

1.1 Unknown Distributee. If it appears that the identity or whereabouts of a distributee is unknown or there are no known heirs, a written report verified by the fiduciary or counsel setting forth:

1.1.1.1 the nature of the investigation made to locate the heirs of the decedent in complete detail; and

1.1.1.1 in cases of intestacy, a family tree, as complete as possible, supported by such documentary evidence as the fiduciary has been able to obtain.

1.1 Non-resident Distributee. If the fiduciary requests the Court to withhold distribution to a non-resident distributee, a written report verified by the fiduciary or counsel setting forth:

1.1.1.1 the relationship of the distributee to the decedent and any available information concerning his or her present whereabouts;

1.1.1.1 in cases of intestacy, a family tree, as complete as possible, supported by such documentary evidence as the fiduciary has been able to obtain; and

1.1.1.1 the reasons for the request that distribution be withheld and the suggested manner of withholding.

(Effective June 26, 1995)

RULE 14. INCOMPETENTS' ESTATES

RULE 14.1. LOCAL RULES

The practice and procedure with respect to incompetents' estates shall be as prescribed by local rules, which shall not be inconsistent with Rules 2 and 3 hereof.

NOTE: These proceedings are now governed by 20 Pa.C.S.A. §5501 et seq., as amended after the adoption of Supreme Court Orphans' Court Rules 14.1 through 14.4. Among other changes the amendments to the Act substitutes "Incapacitated Persons" for "Incompetents".

(Effective June 26, 1995)

RULE 14.2. ADJUDICATION OF INCOMPETENCY AND APPOINTMENT OF A GUARDIAN OF THE ESTATE OF AN INCOMPETENT

1.1 A petition to adjudicate a person incompetent and to appoint a guardian of his estate shall set forth

1.1.1.1 the name and relationship of the petitioner to the alleged incompetent; if not related, the nature of his interest;

1.1.1.1 the age, marital status, and domicile of the alleged incompetent; whether he is a patient in a mental hospital; if so, the name and address of the hospital, the date of his admission, and whether it is a state-owned mental hospital or a Veterans' Administration hospital;

1.1.1.1 the names and addresses of the next of kin of the alleged incompetent;

1.1.1.1 the gross value of the alleged incompetent's estate, and his net income from all sources, to the extent that this information is known by petitioner;

1.1.1.1 whether the alleged incompetent was ever a member of the Armed Services of the United States, or is receiving any benefits from the United States Veterans' Administration or its successor;

1.1.1.1 a general averment of incompetency as defined in Chapter 55 of the Probate, Estates and Fiduciaries Code;

1.1.1.1 the name and address of the proposed guardian, and what, if any, relationship he bears to the alleged incompetent;

1.1.1.1 an averment that the proposed guardian has no interest adverse to the alleged incompetent;

1.1.1.1 whether any other Court has ever assumed jurisdiction in any proceeding to determine the competency of the alleged incompetent;

1.1.1.1 that the alleged incompetent has no guardian already appointed; and

1.1.1.1 a prayer for a citation, directed to the alleged incompetent, with notice thereof to his next of kin and to such other persons as the Court may direct, to show cause why he should not be adjudged an incompetent and a guardian of his estate appointed.

1.1 The proposed guardian's written consent to the appointment shall be attached.

(Effective June 26, 1995)

Rule 14.2.1. Notice and Service

1.1 Notice in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person is required on all persons who are sui juris and are heirs of the alleged or adjudicated incapacitated person, as defined by the intestacy laws of Pennsylvania. Such notice is required even if the person does not reside within the Commonwealth of Pennsylvania.

1.1 Notice required in matters involving adjudication of incapacity or appointment or removal of a guardian for an incapacitated person, other than notice upon the alleged or adjudicated incapacitated person, shall be by personal service, by service in such manner as the Court directs and/or as directed by statute in that particular case, or may be made by first-class mail, postage prepaid, to the known or last known address. In the latter case, a certificate of service shall be prepared and filed verifying that the address used is the proper known or last known address, and attaching a postal certificate of mailing.

1.1 The petition shall include a notice and citation, substantially in the form prescribed by Y.C.O.C.R. 14.5.1. Petitioner shall be responsible for obtaining a completed notice and citation from the Clerk of the Orphans' Court, and petitioner shall be responsible for proper service of the petition, notice and citation. In all cases, service of the petition, notice and citation shall be made upon the alleged or adjudicated incapacitated person by personal service by the Sheriff or by any other competent adult, and the person making such service shall read to the alleged or adjudicated incapacitated person the petition, notice and citation, and then for a second time the notice and citation. The person making service shall explain the contents to the extent possible. When the alleged incapacitated person is institutionalized, service of the citation shall also be made upon the superintendent or other officer of the institution having custody of said incapacitated person.

1.1 Petitioner is responsible for filing a return of service conforming to Pa.R.C.P. 405, which also confirms that the contents of the notice and citation and of the petition were read and, to the extent possible, explained, to the Respondent as set forth in paragraph (c), above.

(Effective June 26, 1995)

Rule 14.2.2

1.1 The petition shall comply with the requirements of PEF Code §5511(e), as well as with the Supreme Court Orphans' Court Rules.

1.1 Language used in the petition should be easily understood. It is recommended that an affidavit of a physician or clinical psychologist be attached which contains a description of the physical and mental condition, any functional limitations and whether or not the respondent would be harmed by attendance at the proceeding to determine capacity.

(Effective June 26, 1995)

Rule 14.2.3. Written Consent

1.1 If the proposed guardian is an individual, the written consent of the proposed guardian shall include:

1.1.1.1 the place of residence of the proposed guardian;

1.1.1.1 the occupation of the proposed guardian;

1.1.1.1 a statement that the proposed guardian speaks, reads and writes the English language;

1.1.1.1 a statement that the proposed guardian does not have any interest adverse to the alleged incapacitated person;

1.1.1.1 a statement that the proposed guardian is not a fiduciary, or an officer or employee of a corporate fiduciary, of an estate in which the alleged incapacitated person has an interest; not the surety, or an officer or employee of a corporate surety of such a fiduciary.

1.1 If the proposed guardian is a corporate guardian, the written consent of the proposed guardian shall contain a statement that it is not the fiduciary of an estate in which the alleged incapacitated person has an interest, nor the surety of such a fiduciary, and that the proposed guardian does not have any adverse interest to the alleged incapacitated person.

(Effective June 26, 1995)

Rule 14.2.4. Inventory

Every guardian shall be required to file an inventory in the office of the Clerk in accordance with the provision of the PEF Code §5521 (relating to provisions concerning powers, duties and liabilities) and PEF Code §5142 (relating to inventory).

(Effective June 26, 1995)

Rule 14.2.5. Special Petitions for Allowances

1.1 A petition for an allowance from an incapacitated person's estate or for payment of counsel fees, shall set forth:

1.1.1.1 the name of the guardian and date of appointment, or, if the petitioner is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest;

1.1.1.1 a summary of the inventory, the date it was filed and the nature and present value of the estate and its income;

1.1.1.1 the address and occupation, if any, of the incapacitated person;

1.1.1.1 the names and addresses of the incapacitated person's dependents, if any;

1.1.1.1 a statement of all claims of the incapacitated person's creditors known to petitioner;

1.1.1.1 a statement of all previous distribution allowed by the Court;

1.1.1.1 a statement of the requested distribution and the reasons therefor.

1.1 If any portion of the incapacitated person's estate is received from the United States Veterans' Administration, notice of the request for allowance shall be given that agency.

(Effective June 26, 1995)

Rule 14.2.6. Status Reports of Guardian of Person

1.1 Within one (1) year of the date of appointment and annually thereafter, or with such greater frequency as the Court may direct, every guardian of the person of an incapacitated person shall file a periodic report of the guardian of the person in substantially the form available in the office of the Clerk. Notice and service of the said report shall be in such manner as the Court shall direct.

1.1 Notice of filing shall be made to such person and in such manner as the Court shall direct.

(Effective June 26, 1995)

Rule 14.2.7. Status Reports of Guardian of Estate

1.1 At least seven (7) days prior to the date established for hearing on the petition, petitioner shall file in duplicate a status report on legal representation in substantially the form available in the office of the Clerk, each of which should have attached, under the proper caption, the appropriate order in substantially the form available in the office of the Clerk.

1.1 Within one (1) year of the date of appointment and annually thereafter, or with such great frequency as the Court may direct, every guardian of the estate of an incapacitated person shall file a periodic report of the guardian of the estate in substantially the form available in the office of the Clerk. Notice and service of the said report shall be in such manner as the Court shall direct.

(Effective June 26, 1995)

RULE 14.3. ADJUDICATION OF COMPETENCY

A petition to adjudicate that a person previously adjudged incompetent has become competent shall set forth

(1) the date of the adjudication of incompetency;

(2) the name and address of the guardian;

(3) if the incompetent has been a patient in a mental hospital, the name of such institution, the date of his admission and the date of discharge;

(4) the present address of the incompetent, and the name of the person with whom he is living;

(5) the names and addresses of the next of kin of the incompetent; and

(6) an averment that the mental health of the incompetent has been restored.

(Effective June 26, 1995)

Rule 14.3.1. Notice

The petitioner shall give notice of the hearing to the guardian if he is not the petitioner and to the next of kin of the incapacitated person. At the hearing on the petition, proof of service of the notice and petition shall be submitted to the Court.

(Effective June 26, 1995)

Rule 14.3.2. Final Decree

In entering its decree, the Court may direct the guardian to file an account.

Note: See PEF Code § 5517.

(Effective June 26, 1995)

RULE 14.4. PROCEEDINGS RELATING TO REAL ESTATE

A petition for the public or private sale, exchange, lease, or mortgage of real estate of an incompetent or the grant of an option for the sale, exchange or lease of the same shall conform as far as

practicable to the requirements of these rules for personal representatives, trustees and guardians of minors in a transaction of similar type.

NOTE: See Pa.O.C. Rules 12.9 to 12.11, inclusive, and the Rules thereunder.

(Effective June 26, 1995)

(ADOPTION OF THE FOLLOWING RULE BY THE SUPREME COURT IS PENDING).

Rule 14.5. Form of Citation and Notice.

The citation and notice to be attached to, and served with a petition for adjudication of incapacity and appointment of guardian, shall be substantially in the following form:

COURT OF COMMON PLEAS
OF _____ COUNTY, PENNSYLVANIA
ORPHANS' Court DIVISION

TO: _____

A PETITION HAS BEEN FILED WITH THIS COURT TO HAVE YOU DECLARED AN INCAPACITATED PERSON. IF THE COURT FINDS YOU TO BE AN INCAPACITATED PERSON, YOUR RIGHTS WILL BE AFFECTED, INCLUDING YOUR RIGHT TO MANAGE MONEY AND PROPERTY AND TO MAKE DECISIONS. A COPY OF THE PETITION WHICH HAS BEEN FILED BY _____ IS ATTACHED.

YOU ARE HEREBY ORDERED TO APPEAR AT A HEARING TO BE HELD IN COURT ROOM NO. _____, PENNSYLVANIA, ON _____, AT _____ M. TO TELL THE COURT WHY IT SHOULD NOT FIND YOU TO BE AN INCAPACITATED PERSON AND APPOINT A GUARDIAN TO ACT ON YOUR BEHALF.

TO BE AN INCAPACITATED PERSON MEANS THAT YOU ARE NOT ABLE TO RECEIVE AND EFFECTIVELY EVALUATE INFORMATION AND COMMUNICATE DECISIONS AND THAT YOU ARE UNABLE TO MANAGE YOUR MONEY AND/OR OTHER PROPERTY, OR TO MAKE NECESSARY DECISIONS ABOUT WHERE YOU WILL LIVE, WHAT MEDICAL CARE YOU WILL GET, OR HOW YOUR MONEY WILL BE SPENT.

AT THE HEARING, YOU HAVE THE RIGHT TO APPEAR AND TO BE REPRESENTED BY AN ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE COURT TO APPOINT AN ATTORNEY TO REPRESENT YOU AND TO HAVE THE ATTORNEY'S FEES PAID FOR YOU IF YOU CANNOT AFFORD TO PAY THEM YOURSELF, YOU ALSO HAVE THE RIGHT TO REQUEST THAT THE COURT ORDER THAT AN INDEPENDENT EVALUATION BE CONDUCTED AS TO YOUR ALLEGED INCAPACITY.

IF THE Court DECIDES THAT YOU ARE AN INCAPACITATED PERSON, THE COURT MAY APPOINT A GUARDIAN FOR YOU, BASED ON THE NATURE OF ANY CONDITION OR DISABILITY AND YOUR CAPACITY TO MAKE AND COMMUNICATE DECISIONS. THE GUARDIAN WILL BE OF YOUR PERSON AND/OR YOUR MONEY AND OTHER PROPERTY AND WILL HAVE EITHER LIMITED OR FULL POWERS TO ACT FOR YOU.

IF THE COURT FINDS YOU ARE TOTALLY INCAPACITATED, YOUR LEGAL RIGHTS WILL BE AFFECTED AND YOU WILL NOT BE ABLE TO MAKE A CONTRACT OR GIFT OF YOUR MONEY OR OTHER PROPERTY. IF THE COURT FINDS THAT YOU ARE PARTIALLY INCAPACITATED, YOUR LEGAL RIGHTS WILL ALSO BE LIMITED AS DIRECTED BY THE COURT.

IF YOU DO NOT APPEAR AT THE HEARING (EITHER IN PERSON OR BY AN ATTORNEY REPRESENTING YOU) ON THE _____ DAY OF _____, 199____, THE COURT WILL STILL HOLD THE HEARING IN YOUR ABSENCE AND MAY APPOINT THE GUARDIAN REQUESTED.

BY: _____
CLERK, ORPHANS' COURT

Rule 14.5.1

The petition for the appointment of a guardian of an incapacitated person shall comply with the requirements of the pending Pa.O.C. Rule 14.5 as set forth above.

(Effective June 26, 1995)

RULE 15. ADOPTIONS*

*See the Adoption Act of 1970, P.L. 620, 1 P.S. §101 et seq. [Repealed; see, now 23 Pa.C.S. §2101 et seq.] As to adoption jurisdiction in the Orphans' Court Division in all counties other than Philadelphia, see §§711(7) and 713, PEF Code, 20 Pa.C.S. §§711(7) and 713.

Rule 15.1. Local Rules.

The practice and procedure with respect to adoptions shall be as provided by Act of Assembly and to the extent not inconsistent therewith shall conform either with the pertinent general rule or special order of the local Orphans' Court or, in the absence thereof, with this Rule 15.

(Effective June 26, 1995)

Rule 15.1.1. Practice and Procedure

All reports and petitions relating to adoption shall be filed with the Clerk and shall be in such form as is designated from time to time by the Court. All filing fees shall be paid at the time of filing. Upon the completion of any proceedings relative to adoption, all documents in connection therewith shall be handled in the manner set forth in Pa.O.C. Rule 15.7.

(Effective June 26, 1995)

RULE 15.2. VOLUNTARY RELINQUISHMENT TO AGENCY.¹

¹ Footnote omitted. For text of the footnote, see Pa.O.C.R. 15.2 in the Pennsylvania Rules of Court Desk Copy.

1.1 Petition. A petition under Section 301 of the Adoption Act to relinquish parental rights and duties with respect to a child who has been in the care of an Agency shall include the following allegations:

1.1.1.1 the name, address, age, racial background and religious affiliation of each petitioner;

1.1.1.1 the information required in subparagraph (1) as to any parent who is not a petitioner, including the father of a child born out of wedlock, if he has been identified, unless the Court, for cause shown, determines such information is not essential;

1.1.1.1 the marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name;

1.1.1.1 the name, age, date of birth, racial background, sex and religious affiliation of the child;

1.1.1.1 the name and address of the Agency having care of the child;

1.1.1.1 the date when the child was placed with the Agency;

1.1.1.1 when the child is born out of wedlock, whether the mother and the father of the child intend to marry;

1.1.1.1 the reasons for seeking relinquishment;

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

1.1 Exhibits. The petition shall have attached to it the following exhibits:

1.1.1.1 the joinder of a parent who is not a petitioner or his or her waiver of all interest in the child, if either is obtainable;

1.1.1.1 a birth certificate or certification of registration of birth of the child;

1.1.1.1 the written consent of a parent or guardian of a petitioner who has not reached 18 years of age;

1.1.1.1 the joinder of the Agency having care of the child and its consent to accept custody of the child until such time as the child is adopted.

1.1 Notice and Hearing. If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights and duties in and to the child or joined in the other parent's petition hereunder, then notice of the hearing on the petition to relinquish rights and duties shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right TO such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the Court.

(Effective June 26, 1995)

**RULE 15.3. VOLUNTARY RELINQUISHMENT TO ADULT
INTENDING TO ADOPT CHILD**

1.1 Petition. A petition under Section 302 of the Adoption Act to relinquish parental rights with respect to a child who has been in the exclusive care of an adult or adults who have filed a Report of Intention to Adopt shall include the allegations required under subparagraphs (1), (2), (3), (4), (7), (8) and (9) of Rule 15.2(a) and

1.1.1.1 the date when the Report of Intention to Adopt was filed;

1.1.1.1 the date when the child was placed with the adult or adults;

1.1 Exhibits. The petition shall have attached to it the first three exhibits specified in Rule 15.2(b) and

1.1.1.1 the separate consent of the adult or adults to accept custody of the child.

1.2 Notice and Hearing. If a parent, including the parent of a child born out of wedlock, has not relinquished his or her rights in the child or joined in the petition hereunder, then notice of the hearing on a parent's petition to relinquish rights shall be given to the first referred to parent as provided in Rule 15.6. A parent may waive in writing the right of such notice. Each petitioner and each person whose joinder or consent is attached to the petition shall be examined under oath at the hearing unless excused by the Court.

(Effective June 26, 1995)

RULE 15.4. INVOLUNTARY TERMINATION OF PARENTAL RIGHTS²

² Footnote omitted. For text of the footnote, see Pa.O.C.R. 15.2 in the Pennsylvania Rules of Court Desk Copy.

1.1 Petition. A petition for involuntary termination of parental rights under Sections 311 and 312 of the Adoption Act shall include the following allegations:

1.1.1.1 the name and address of the petitioner and his or her standing;

1.1.1.1 the name, age, date of birth, racial background, sex and religious affiliation of the child;

1.1.1.1 the name, address, age, racial background and religious affiliation of the parent or parents, including the father of a child born out of wedlock, if he has been identified;

1.1.1.1 the marital status of the mother as of the time of birth of the child and during one year prior thereto and, if the mother has ever been married, the name of her husband or husbands and her maiden name;

1.1.1.1 the date when the child was placed in the care of the petitioner;

1.1.1.1 facts constituting grounds for the involuntary termination under Section 311 of the Adoption Act, and a reference to the applicable subsection or subsections;

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

1.1.1.1 that the petitioner will assume custody of the child until such time as the child is adopted.

1.1 Exhibits. The petition shall have attached to it the following exhibits:

1.1.1.1 a birth certificate or certification of registration of birth of the child;

1.1.1.1 the joinder of a parent of a petitioner who is under the age of 18, unless excused by the Court.

1.1 Guardian Ad Litem.

1.1.1.1 When the termination of the parental rights of a parent who has not attained the age of 18 years is sought, unless the Court finds the parent is already adequately represented, the Court shall appoint a guardian ad litem to represent the parent. The appointment of a guardian ad litem may be provided for in the preliminary order attached to the petition for involuntary termination of parental rights.

1.1.1.1 The decree appointing a guardian ad litem shall give the name, date of birth and address (if known) of the individual whom the guardian ad litem is to represent and the proceedings and period of time for which the guardian ad litem shall act.

1.1 Notice and Hearing. Notice of the hearing on the petition shall be given, in accordance with Rule 15.6 hereof, to the parent or parents whose rights are sought to be terminated, including the parent of a child born out of wedlock, to any intermediary named in a Report of Intention to Adopt, if one has been filed, and to the guardian of the person or guardian ad litem of any parent or parents who is or are under the age of 18 years. Each petitioner, each person whose joinder or consent is attached to the petition and any intermediary named in a Report of Intention to Adopt shall be examined under oath at the hearing unless they are excused by the Court.

(Effective June 26, 1995)

Rule 15.4.1

In every proceeding brought to terminate any parental rights as to a child born in the Commonwealth of Pennsylvania, petitioner shall obtain and provide to the Court at the time of the hearing thereon official certificates obtained from the Pennsylvania Department of Welfare (formerly obtained from the Pennsylvania Department of Health, Bureau of Vital Statistics) identifying any paternity acknowledgements or

paternity claims on file with the Department in accordance with 23 Pa.C.S. §5103(b) as to each such child as to whom termination of parental rights is sought.

(Effective June 26, 1995)

RULE 15.5. ADOPTION³

³ **Footnote omitted. For text of the footnote, see Pa.O.C.Rule 15.5 in the Pennsylvania Rules of Court Desk Copy.**

1.1 Petition. The petition shall contain all declarations and information required by Section 401 of the Adoption Act and any additional information required by local rules.

1.1 Notice or Consent - Parents of Child. Notice as provided by Rule 15.6 shall be given to each parent unless:

1.1.1.1 he or she has consented in writing to the adoption and waived notice of hearing, or;

1.1.1.1 he or she has voluntarily relinquished his or her parental rights in a proceeding under Rule 15.2 or Rule 15.3, or;

1.1.1.1 his or her parental rights have been involuntarily terminated in a proceeding under Rule 15.4.

1.1 Investigation. A petition for adoption shall be subject to investigation as prescribed by local rules. The investigation report shall cover the matters alleged in the petition, any other matters that may affect the welfare of the child, and the information required by Sections 335 and 424 of the Adoption Act.

1.2 Disclosure of Fees and Costs. At the hearing there shall be offered in evidence a report, certified by counsel for the petitioner, setting forth the amount of fees and expenses paid or to be paid to counsel, and any other fees, costs and expenses paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

1.1 Adult - Change of Name. When the person to be adopted is over the age of 18 years and desires to assume the surname of the adopting parent or parents, evidence showing compliance with the law relating to change of name must be introduced before a decree will be made.⁴

(Effective June 26, 1995)

Rule 15.5.1. Notice of Adoption Hearing and/or Hearing to Confirm Consent to Adoption

Notice of an adoption hearing or of any hearing to confirm a consent to adoption shall be given to any parent of the child in question whose parental rights have not already been terminated.

(Effective June 26, 1995)

RULE 15.6. NOTICE; METHOD AND TIME

Notice to every person to be notified shall be by personal service, service at his or her residence on an adult member of the household, or by registered or certified mail to his or her last known address. If such service is not obtainable and the registered or certified mail is returned undelivered, then:

⁴ Act of April 18, 1923, P.L. 75, as amended, 54 P.S. §1 et seq. [See now 54 Pa.C.S. §710 et seq.]

(1) no further notice shall be required in proceedings under Rule 15.2 or 15.3, and

(2) in proceedings under Rules 15.4 and 15.5, further notice by publication or otherwise shall be given if required by general rule or special order of the local Orphans' Court.

If, after reasonable investigation, the identity of a person to be notified is unknown, notice to him or her shall not be required.

(Effective June 26, 1995)

**RULE 15.7. IMPOUNDING; DOCKET ENTRIES;
REPORTS; PRIVACY**

1.1 All proceedings shall be impounded, docket entries made, report made to the Department of Public Welfare, and certificates of adoption issued as provided in Sections 505, 506, 507 and 508, respectively, of the Adoption Act.

1.1 The name or names of the natural parents and the name or names of the child before adoption shall not be entered on any docket which is subject to public inspection.

1.1 No decision under the Adoption Act of any hearing judge or appellate Court publicly reported or in any other way made available to the public by the Court shall disclose the identity of the individual parties.

(Effective June 26, 1995)

**RULE 16. PROCEEDINGS PURSUANT TO SECTION 3206
OF THE ABORTION CONTROL ACT**

Pa.O.C. Rules 16.1 to 16.8, inclusive, are intentionally omitted. See full text of Rules and Publisher's Note following Pa.O.C. Rule 16 in the Pennsylvania Rules of Court Desk Copy.