

**LOCAL RULES
of the
ORPHANS' COURT OF LEHIGH COUNTY**

The current website for electronic access to Pa. O.C. Rules and Supreme Court forms is www.aopc.org.

Local Rules 1 through 14 herein are effective as of September 1, 2016

Local Adoption Rules are not reprinted here.

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CHAPTER I

GENERAL RULES

Rule 1.1-1 Local Rules.

All local rules adopted by the Orphans' Court Division of the Court of Common Pleas of Lehigh County shall be known as Lehigh County Orphans' Court Rules and shall be cited as "Leh. O.C. Rule ____."

Rule 1.3-1. Additional Definitions.

(a) "Code" means the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S.A. §101 *et. seq.*, as amended.

(b) "Rule" means any rule of Court promulgated by the Supreme Court of Pennsylvania or the Orphans' Court Division of the Court of Common Pleas of Lehigh County.

(c) "Except as otherwise provided" means "except as otherwise provided by statute, rule, or special order of this Court".

(d) "Director" means the Director of Orphans' Court Operations.

Rule 1.7-1. Attorneys. Information.

Every attorney presenting or filing any paper with the Court or the Clerk shall endorse thereon his or her name, Supreme Court identification number, office address and telephone number.

Rule 1.8-1. Local Forms.

Except to the extent of Supreme Court-approved forms, which are to be used exclusively in practice before the Orphans' Court and Register of Wills, and which are available on the website of the Administrative Office of Pennsylvania Courts, from time to time, the Court may approve other forms to facilitate practice and procedure before the Court and such forms are maintained at the Court's website at www.lccpa.org/orphans.

CHAPTER II

FORMAL FIDUCIARY ACCOUNTS

Rule 2.1-1. Form. Title. Blending. Supplemental Accounts.

(a) Title of Accounts.

- (1) All accounts shall be designated consecutively, as the case may be, viz.: First and Partial, Second and Partial, etc.; First and Final, Second and Final, etc.;
- (2) Accounts filed after the filing of a final account shall be designated "First (Second, as the case maybe) Supplemental Account to (Title of the original account);
- (3) When an account which has been filed is restated in its entirety, it shall carry the title of the original account with the words "As Restated" added;
- (4) The titles "Amended" or "Revised Account" shall not be used.

(b) Blending.

Items of distribution shall not be blended with credit items. Accounts containing such blending shall not be filed, and if filed, will not be confirmed.

(c) Supplemental Accounts.

Supplemental accounts shall conform to the original accounts in every detail, including form, execution and verification.

Rule 2.1-2. Accounts by Cemetery Trustees.

The accounts filed by Institutional Trustees and by Cemetery Companies as Trustee pursuant to 9 Pa. C.S.A. §308 shall include therein a schedule containing information sufficient to demonstrate compliance with 9 Pa. C.S.A. §303 regarding periodic deposits to permanent lot care funds.

Rule 2.1-3. Valuations

The values of assets on hand should be stated both at the fiduciary acquisition value and the market value as of the end of the accounting period.

Rule 2.2-1. Form. Appointed Estates

Assets appointed by the donee of a testamentary power and which must be accounted for by the fiduciary of the donee because they were awarded by a court of the donor's jurisdiction, shall be shown in an entirely separate account. Such assets shall not be included in an account of the donee's own estate unless the court of the donor's jurisdiction has adjudicated a blending by the donee of the appointed estate with his own.

Separate accounts of the appointed estate shall be captioned in the name of the state of the donor or the power. The caption shall also set forth accountant's name, describing the accountant as fiduciary of the donee, and the court which awarded the assets to accountant.

Rule 2.3-1. Caption. Accounts for Minors. Additional Content.

The caption of all accounts filed for the estates of minors shall set forth the date of birth of the minor.

Rule 2.4-1. Amended Petition for Adjudication/Statement of Proposed Distribution.

(a) An amended Petition for Adjudication/Statement of Proposed Distribution may be filed as of course with the Clerk at any time after the account and Petition for Adjudication/Statement of Proposed Distribution have been filed and before the same are called for audit, and thereafter with leave of or at the direction of the Court.

(b) An amended Petition for Adjudication/Statement of Proposed Distribution shall contain the caption of the case, a heading "Amended Petition for Adjudication/Statement of Proposed Distribution," contents in conformity with Leh. O.C. Rule 2.5-3 hereof, and shall be signed by the parties who executed the Petition for Adjudication/Statement of Proposed Distribution or their counsel of record.

(c) An amended Petition for Adjudication/Statement of Proposed Distribution shall include all exhibits which are not already part of the record.

(d) Notice of an amended Petition for Adjudication/Statement of Proposed Distribution shall be given in the same manner as in the case of a supplemental account (Pa. O.C. Rule 2.5) and shall include the reason therefore.

Rule 2.4-2. Distribution. In Kind.

(a) Whenever unconverted personalty or realty is included in the balance of an account and distribution thereof in kind is proposed, a writing shall be filed with the Petition for Adjudication/Statement of Proposed Distribution, signed by the prospective distributee or distributees and acknowledged before a person duly authorized to take acknowledgments, setting forth his or their election to take in kind, designating clearly and accurately the particular asset or assets included in the election, stating the values at which said asset or assets shall be allotted, and requesting the Court to order distribution accordingly; provided that the foregoing rule shall not apply in the following instances:

(b) When the distribution is in satisfaction of a specific bequest or devise;

(c) When the proposed distributee has, in a proper fiduciary capacity, stated or joined in the statement of the account and executed and verified the Petition for Adjudication/Statement of Proposed Distribution.

(d) When the will specifically authorizes the accountant to make distributions in-kind.

Rule 2.4-3. Distribution. In Kind. Real Estate.

Whenever the distribution of unconverted real estate is proposed, whether in satisfaction of a specific devise or a request for distribution in kind, there shall be submitted with the Petition for Adjudication/Statement of Proposed Distribution a description by metes and bounds and Parcel Identification Number (“PIN”) of each tract or parcel of realty to be distributed, together with a recital of the derivation of decedent’s title. Counsel for the accountant shall certify that he has examined the last recorded deed or the record thereof in the public office for the recording of deeds in the county in which the real estate is located and that the description submitted is a true and exact copy of the description contained in the recorded deed.

Rule 2.4-4. Distribution of After-Discovered Assets.

(a) Whenever additional assets are discovered after audit and final confirmation of an account, a petition by the personal representative or any interested party may be presented to the Court without the filing of a supplemental inventory or a formal accounting. The petition shall set forth that no transfer inheritance tax is due or that any such tax due has been paid as shown by a true and correct copy of the official receipt therefor attached to the petition as an exhibit; that there are no known unpaid claimants of the estate or, if there be such claimants, the names, addresses, and amounts claimed by such claimants; the names and addresses of those entitled to receive distribution and the facts supporting such conclusions; and a Petition for Adjudication/Statement of Proposed Distribution.

(b) Notice of such a petition shall be given in accordance with Pa. O.C. Rule 2.5.

Rule 2.5-1. Notice. Co-fiduciaries.

Written notice of the filing of the account and the call thereof for audit shall be given to all co-fiduciaries who do not join in stating the account in accordance with Pa. O.C. Rule 2.5.

Rule 2.5-2. Notice to Guardian or Trustee ad Litem. Time.

Whenever a guardian ad litem or a trustee ad litem is appointed within three (3) weeks of the audit date, then the audit date shall be continued if requested by the guardian ad litem or the trustee ad litem.

Rule 2.5-3. Notice. Supplemental Accounts.

Whenever a supplemental account is filed before the original account is called for audit, notice thereof shall be given as nearly as possible in accordance with Pa. O.C. Rule 2.5 and proof of notice filed in accordance therewith, and, provided at least twenty (20) days elapse between the giving of such notice and the day on which the original account is called for audit, the Court will audit both the original and supplemental accounts. In the event the aforementioned notice is not given or that the requisite twenty (20) days between notice and the call for audit do not elapse, the Court will audit both accounts and a true and correct copy of the supplemental account will be served with the Court's adjudication and order as provided by Leh. O.C. Rule 4.6-1.

Rule 2.6-1. Time for Filing with the Clerk.

Accounts to appear on a particular audit list shall be filed no later than the closing date fixed for that audit list by the Court calendar.

Rule 2.6-2. Time for Filing. Supplemental Accounts.

When a final account has been filed for audit, a supplemental account of subsequent receipts and disbursements and an amended Petition for Adjudication/Statement of Proposed Distribution, if necessary, stated in accordance with Pa. O.C. Rule 2.1 and Leh. O.C. Rule 2.4-1 may be filed with the Clerk before, or with the Court at, the call of the final account for audit, or whenever the Court shall direct. Notice of the filing of a supplemental account to be given to all interested parties in accordance with Pa. O.C. Rule 2.5.

Rule 2.7-1. Objections. Time for Filing.

(a) Objections may be made orally when an account is first called for audit, in which event they shall be reduced to writing and filed in conformity with these Rules within five (5) *business* days thereafter. Notice of the filing of written objections must be mailed in accordance with Pa. O.C. Rule 2.7(a).

(b) Objections to supplemental accounts or amended Petition for Adjudication/Statement of Proposed Distribution shall be in the same form and filed in the same manner as objections to accounts and Petitions for Adjudication/Statements of Proposed Distribution.

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

Rule 2.7-2. Objections. Service. Return.

(a) Immediately after objections have been filed with the Clerk, a copy of said objections to an account and/or Petition for Adjudication/Statement of Proposed Distribution shall be served upon the accountant and all other interested parties or their attorneys of record. Proof of such service shall be filed with the Clerk within ten (10) days of filing objections.

Rule 2.7-3. Objections. Continuance of Audit.

When objections to an account and/or Petition for Adjudication/Statement of Proposed Distribution have been filed prior to or at audit, or presented orally and thereafter filed in writing, in accordance with Leh. O.C. Rule 2.7-1, the audit of the account shall be continued pending disposition of the objections.

Rule 2.9-1. Confirmation of Account, Order of Distribution and Satisfaction of Award.

(a) An order of court confirming an account and directing distribution is final.

(b) Any party distributing, paying or delivering money or other property to a distributee may, at the time thereof, require the distributee or his counsel to execute a Satisfaction of Award and shall file same with the Clerk.

(c) Whenever a distributee has refused to execute a Satisfaction of Award as provided above, the distributor may petition the Court for an order directing the distributee to enter, or authorizing the entry of, a Satisfaction of Award.

(d) The Clerk shall, at the request of any interested party, certify excerpts from an order of court for recording in any public office for the recording of deeds.

CHAPTER III

PETITION PRACTICE AND PLEADING

Part A. Petition Practice

Rule 3.4-1. Exhibits. Certification.

(a) There shall be attached to all petitions as exhibits the originals or copies of all wills, codicils, agreements and other written instruments relied upon.

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

Rule 3.4-2. Exhibits. Foreign Language. Translation.

Whenever a written instrument in a language other than English is attached to a petition as an exhibit, it shall be accompanied by an English translation sworn to or affirmed by the translator to be a true and correct translation of the original.

Rule 3.4-3. Consents. Joinders. Averments.

All petitions shall aver that the interested parties are petitioners, or that all consents or joinders of all necessary parties are attached to the petition, or set forth the names of all necessary parties whose consents, approvals or joinders are attached to the petition and the names of all necessary parties whose consent or joinders are not attached to the petition.

Rule 3.4-4. Consents. Joinders. Form. Acknowledgment.

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

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

Part B. Responsive Pleadings

Rule 3.9-1. Briefs.

Within twenty (20) days after preliminary objections not raising issues of fact have been filed, the objector shall file his or her brief with the Clerk and serve a copy thereof upon all other interested parties, failing which the preliminary objections shall be dismissed as of course. Upon receipt of a brief timely filed, the Clerk shall list the case for argument and notify all interested parties. Answering briefs shall be filed with the Clerk not less than twenty (20) days prior to the date for argument.

Rule 3.9-2. Failure to File an Answer to Preliminary Objections.

If the petitioner fails to file an answer to preliminary objections raising questions of jurisdiction, the averments of fact set forth in the preliminary objections shall be deemed admitted and the case shall be deemed at issue. The Court may then, *sua sponte* or upon praecipe and with or without argument, enter an appropriate order.

Rule 3.10-1. Failure to Answer.

If the respondent fails to file an answer, as herein provided, the averments of fact set forth in the petition shall be deemed admitted and the case shall be at issue. The Court may then, *sua sponte* or upon praecipe, with or without a hearing, enter a decree granting the prayer of the petition.

Part C. Pleadings in General

Rule 3.13-1. Permissible Signature.

When it is impractical to comply with Pa. O.C. Rules 3.4(d) and 3.13, the pleading may be signed and attested by someone familiar with the facts, in which case the reason for the failure of the petitioner to sign shall be set forth in the attestation.

CHAPTER IV

FORMAT; SERVICE OF LEGAL PAPER; ELECTRONIC FILING

Rule 4.1-1. Legal Paper.

All legal paper shall conform to the following requirements:

(a) The first sheet shall contain a 3-inch space from the top of the paper for all court stampings, filing notices, etc.;

(b) Be firmly bound by means of a metal binder clip only and numbered consecutively at the bottom;

(c) If filed by an attorney, shall be endorsed with his name, Supreme Court Identification Number, office address, telephone number and facsimile number; and

(d) If filed pro se (an unrepresented party), shall be endorsed with his name, address and telephone number.

Rule 4.1-2. Briefs.

In all matters where briefs are to be filed, an original and one copy shall be filed with the Clerk and served upon the other interested parties in accordance with these Rules. All briefs shall include proper legal citations conforming to the Uniform System of Citations and contain:

(a) A title page upon which shall appear the caption of the case, including its file number; a designation of the party upon whose behalf the brief is filed and of the matter involved;

(b) A statement or counter-statement of the questions involved; in which each question involved shall be set forth clearly and succinctly in a single sentence which can be answered either "Yes" or "No.";

(c) A statement or counter-statement of the case;

(d) Summary of argument;

(c) If notice was given by publication, an affidavit in the following form shall be

(CAPTION)

COMMONWEALTH OF PENNSYLVANIA)
) ss:
COUNTY OF LEHIGH)

NAME, being duly sworn according to law, deposes and says that the present address of NAME is unknown; [that a true and correct copy of the notice attached hereto was forwarded to NAME, at his last known residence at ADDRESS, by mail on DATE; that said mail was returned unopened and undelivered by the post office; that said unopened and undelivered letter is attached hereto;]⁴ that notice was given by publication once a week for three (3) successive weeks on DATE, DATE, and DATE in the PUBLICATION, a newspaper of general circulation published in the LOCATION OF PUBLICATION, and by publication one (1) a week for three (3) successive weeks on DATE, DATE, and DATE in the PUBLICATION, the legal periodical published in LOCATION OF PUBLICATION; that attached hereto are the proofs of publication of said notice in said newspaper and legal periodical; and that the facts set forth herein are true and correct.

/s/_____ Sworn
to and subscribed
before me this ___ day of
_____, 20__ .

Notary Public
My commission expires: _____

⁴ If initially notice was given by publication, the portion of the form enclosed in brackets shall be omitted from the return.

Rule 4.6-1. Adjudication and Order. Service. Method. Proof.

(a) Promptly upon receipt of notice of entry of an adjudication order confirming a formal fiduciary account, counsel for the accountant shall immediately serve a true copy of the adjudication and order upon:

- (1) Every individual required to be served with the account and the Petition for Adjudication/Statement of Proposed Distribution pursuant to Pa. O.C. Rule 2.5;
- (2) Each attorney of record; and
- (3) Such other parties as the Court may direct.

(b) Immediately upon effecting service of the adjudication and order as provided in (a) hereof, counsel for the accountant shall file proof of such service.

CHAPTER V

SPECIFIC TYPES OF PETITIONS

Rule 5.5.1. Reports.

Upon direction by the Court, each Guardian *ad litem* and Trustee *ad litem* appointed by the Court shall, upon concluding the duties of his appointment, file with the Court a written report in substantial conformity with Pa. O.C. Rule 9.4.

Rule 5.5-2. Compensation.

The compensation of a Guardian *ad litem* or a Trustee *ad litem* appointed by the Court shall be fixed by the Court on the basis of time expended, the nature of the services rendered, and the results obtained. Unless otherwise directed by the Court, requests for compensation shall be in the form of a petition filed with the Clerk and shall be accompanied by an itemized statement of services rendered.

Rule 5.5-3. Resignation.

No Guardian *ad litem* or Trustee *ad litem* shall resign without prior approval of the Court pursuant to a petition.

Rule 5.6-1. Receipt of Death Benefit/Life Insurance Proceeds Payable to a Minor Without Appointment of Guardian of the Estate.

(a) A petition for authority to receive life insurance and/or death benefit proceeds payable to a minor without the appointment of a guardian of the estate shall include:

- (1) Petitioner's name, address and relationship to the minor;
- (2) The minor's date of birth and the name, address and relationship of the person with whom the minor resides;
- (3) The name[s] of the minor's parent[s] who are not petitioners;
- (4) A description, including the name of the payor and policy/contract number[s], of the nature and amount of life insurance proceeds/death benefit[s] payable to the minor, including the name, date, place of death and relationship to the minor of the person whose death caused the proceeds to vest in the minor;
- (5) The name, complete branch address and telephone number of a federally insured bank in which the life insurance proceeds/death benefit[s] will be deposited to a restricted account in the minor's name during minority;

- (6) Petitioner's agreement to file the requisite proofs of deposit of the minor's life insurance proceeds/death benefit to an interest-bearing bank account in the minor's name alone, access to which is restricted during minority; and
- (7) Whether any parent of the minor who is not a petitioner is aware of and consents to the petition.

(b) The petition shall be in substantial compliance with the form annexed as APPENDIX C, including referenced attachments.

Rule 5.6-2. Access to Restricted Account Established by Court Order.

(a) A petition for access to a minor's restricted account created by the court pursuant to 20 Pa.C.S.A. §5103, shall include the following information:

- (1) The date that the minor's restricted account was created;
- (2) The file name/caption and number of the proceeding in which the restricted account was created;
- (3) The type of account, the account number, the current balance and the bank name and address;
- (4) Whether there is an early withdrawal penalty assessed by the bank if access is granted by court order, and if so the amount of any such penalty;
- (5) The reason for the requested withdrawal; and
- (6) Whether any non-petitioner parent[s] of the minor consent to the petition.

(b) The petition shall be in substantial compliance with the applicable of the two forms annexed as APPENDIX D, including all referenced attachments.

Rule 5.9-1. Procedure.

The procedure subsequent to the entry of an order of the Orphans' Court directing partition shall, as near as practical, follow the rules for Partition of Real Property set forth in Pa. R.C.P. 1558 et seq., with the "Clerk of the Orphans' Court" being substituted for any reference to Prothonotary or Clerk of Courts.

Rule 5.10-1. Petition.

(a) A petition by any fiduciary to sell real property at public sale pursuant to §§ 3353, 5155, 5521(b) or 7792 of the Code, or any other applicable statute, shall also set forth, as appropriate:

- (1) Type of fiduciary and copy of governing instrument or order;
- (2) A copy of the current deed with PIN;

- (3) An estimate of the fair market value of the property and the basis therefore, along with supporting documentation;
- (4) Whether or not the fiduciary is authorized to sell by statute or is not authorized, or is denied the power to do so by the governing instrument or that it is desirable that the sale have the effect of a judicial sale and the reasons why;
- (5) If the fiduciary has entered a bond, the name of the surety and the amount of such bond;
- (6) The names and relationships of all parties, a brief description of their interests; the ages of any who are minors, the names of the authorized legal representative of any who are deceased or incapacitated, an indication of whether or not each party consents or does not;
- (7) The proposed terms of the sale; and
- (8) A prayer for an order and a copy of a proposed order authorizing the public sale of real property in accordance with the terms of sale set forth in the petition, setting forth the date for sale, directing the filing of a return of sale in accordance with Rule 5.10-3 and setting a date for confirmation of the sale.

Rule 5.10-2. Public Sale. Notice.

(a) After grant of a petition for public sale of real property, notice of the time and place of the proposed sale and a description, stating the size and location of the property to be sold, shall be given by:

- (1) Advertisement once a week for three (3) successive weeks in accordance with the requirements of Lehigh O.C. Rules 4.2-1 and 4.2-2, provided that if the property is located in a county other than Lehigh County then by advertisement as aforesaid in the legal periodical and in a newspaper of general circulation published in the county in which the property is located;
- (2) Posting at a conspicuous place on the real property to be sold and at three (3) different public places in the vicinity of the real property; and
- (3) Regular mail to all interested parties, including the Attorney General of the state in which any charitable party in interest is domiciled in accordance with the requirements of Pa. O.C. Rule 4.4.

(b) All returns of notice shall conform to the pertinent provisions of Lehigh O.C. Rule 4.2-3 and be filed with the Clerk on or before the date set for confirmation of the sale.

Rule 5.10-3. Public Sale. Return of Sale. Confirmation.

(a) Returns of public sale of real property for the purpose of confirmation by the Court shall be in the form of an Affidavit which shall set forth:

- (1) The notice given as provided by Leh. O.C. Rule 5.10-2 hereof;
- (2) The name and address of the purchaser and an averment that he was the highest bidder; and
- (3) The price obtained.

(c) In the absence of objections, which may be filed on or before the date and time set for confirmation, which date shall not be less than twenty (20) days after the date of filing the Affidavit, the Court may enter an order confirming the sale and fixing or waiving additional security.

(d) At the date and time set for confirmation, which date shall not be less than twenty (20) days after the date of filing the Affidavit, the fiduciary shall submit to the Court a proposed order confirming the sale.

CHAPTER VI
[RESERVED]

CHAPTER VII

PRE-HEARING AND HEARING PROCEDURE

Rule 7.1-1. Discovery.

(a) The practice relating to discovery shall be by special Order of the Court in each case.

(b) Leave of Court must be granted to obtain discovery of any kind or the perpetuation of testimony. Requests may be made by petition or oral motion, with proper notice or the consent of all parties.

(c) A petition to perpetuate testimony shall include the averments required by Pa. R.C.P. 1532.

Rule 7.1-2. Pre-hearing Conference.

(a) In any proceeding before the Court, the Court may direct the parties and counsel to appear for a pre-hearing conference.

(b) At least five (5) business days prior to the date of the pre-hearing conference, each party shall file with the Clerk and serve upon each other party a written pre-hearing statement which shall contain:

- (1) A listing of the legal and factual issues and relief requested;
- (2) The names and addresses of all witnesses to be called during the hearing and a statement as to whether each witness is a fact witness or an expert witness;
- (3) An identification of all exhibits to be used at any hearing;
- (4) Any list of proposed stipulations or agreements;
- (5) Any proposed amendments to pleadings;
- (6) Such other matters as may aid the Court in the disposition of this action;
- (7) An identification of hearing counsel, along with counsel's name, address, email address, telephone number and facsimile number;
- (8) An estimate of the length of the hearing; and
- (9) A statement as to the status of settlement negotiations.

Rule 7.2-1. Judgment on the Pleadings. Brief.

All motions for judgment on the pleadings shall be accompanied by a brief in support thereof.

**CHAPTER VIII
RECONSIDERATION
[RESERVED]**

CHAPTER IX

AUDITORS AND MASTERS

Rule 9.1-1. Notice of Hearings. Method. Parties.

(a) An auditor or master shall give written notice of his appointment and of the time and place of his first hearing to all interested parties or their counsel of record.

(b) Notice of succeeding hearings given by the auditor or master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

Rule 9.6-1. Service of Report.

An auditor or master shall serve, in the same manner as provided for notice under Pa. O.C. Rule 4.3, all interested parties or their counsel of record with a time-stamped copy of his report and shall file proof of such service with the Clerk.

Rule 9.7-1. Objections to Report of Auditor or Master.

Objections, if any, to the report of an auditor or master shall be filed within twenty (20) days of the filing of said report in accordance with Pa. O.C. Rule 2.7.

CHAPTER X

PRACTICE BEFORE THE REGISTER OF WILLS

Rule 10.1-1. Supporting Documentation.

In addition to the payment of the published filing fee, the following may be required:

- (a) Photo identification of persons applying for appointment as personal representative;
- (b) An original death certificate or satisfactory substitute;
- (c) Original will/testamentary writing; and
- (d) Affidavit of Relationship.

Rule 10.4-1. Certification of Record. Petition.

(a) A petition to certify the record to the Orphans' Court Pursuant to 20 Pa.C.S.A. § 907 shall include the following information:

- (1) The name, address and interest and/or standing of each petitioner;
- (2) The nature of the proceeding before the Register and its procedural posture;
- (3) The reason of the request to certify the record to the Orphans Court;
- (4) The names of those parties who oppose the certification, if any, and the names of those parties who join the request for certification; and
- (5) A prayer for relief.

Rule 10.4-2. Appeals from Register. Time for Filing Petition. Contents.

(a) A petition for citation to show cause why an appeal from the Register should not be sustained shall be filed with the Clerk within 30 days after the filing of a Notice of Appeal with the Register of Wills.

(b) A petition for citation to show cause why an appeal from the Register should not be sustained shall include the following:

- (1) A description of the decree of the Register from which the appeal is taken, including the date thereof;
 - (2) The date on which a Notice of Appeal was filed with the Register, and if a bond was required, the amount thereof, the date on which it was filed and the name of the surety, if any;
 - (3) The name, address and interest/standing of each petitioner;
 - (4) The factual and legal basis for the appeal;
 - (5) The names and addresses of all interested parties, whether they are *sui juris*, and if not, the names and addresses of their duly appointed legal representatives together with the date and place of said fiduciary's appointment; and
 - (6) The names of any interested parties whose Consents and Joinders are attached and the names of those whose Consents and Joinders are not attached and the nature of such non-consenting party's interest.
- (c) Exhibits.
- (1) A copy of the will, codicil or other instrument relied upon as the basis for the appeal and a copy of the probated instrument, if any;
 - (2) A time-stamped copy of the Notice of Appeal; and
 - (3) Consents and Joinders.

CHAPTER XI
[RESERVED]

CHAPTER XII
[RESERVED]

CHAPTER XIII
[RESERVED]

CHAPTER XIV
ADULT INCAPACITY PROCEEDINGS
[RESERVED]

APPENDIX

To Leh. O. C Rules

APPENDIX A

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

In re: _____ : _____
: File No. _____
:

RULE TO SHOW CAUSE

NOW, this _____ day of _____, _____,

IT IS ORDERED that a Rule hereby, issued upon _____, to show cause why the prayer of the annexed (insert title of petition or motion and the name of the filing party) _____ should not be granted.

Notice is hereby given that, if you are opposed to the granting of the prayer of the annexed petition or motion, you must file a written answer or other responsive pleading with the Clerk of the Orphans' Court Division of Lehigh County, Pennsylvania at the Lehigh County Courthouse, 455 West Hamilton Street, Allentown, Pennsylvania, on or before the return date set forth below.

IF YOU FAIL TO FILE A TIMELY WRITTEN ANSWER OR OTHER RESPONSIVE PLEADING, THE AVERMENTS OF FACT SET FORTH IN THE ANNEXED PETITION OR MOTION SHALL BE DEEMED ADMITTED AND THE COURT *sua sponte*, OR AT THE REQUEST OF THE MOVING PARTY, MAY ENTER AN ORDER GRANTING THE PRAYER THEREOF WITHOUT FURTHER NOTICE TO YOU.

Return Date: _____

BY THE COURT:

J.

3. The minor is the child of _____ and _____.
(provide name of the other parent and his or her current address if living, and the date and place of death if deceased). By order dated, _____, your petitioner was awarded () legal () physical () legal and physical custody of said minor. (attach a copy of the custody order as an exhibit)

4. The minor is a beneficiary of death benefit payable by _____ by reason of the death of _____, a resident of _____ County, who was the _____ of the minor. The amount of the death benefit payable to the minor is _____. (state the name of the company/organization paying the death benefit or life insurance proceeds, including the policy number, if available, the approximate amount so payable to the minor, the name and date of death of the insured and his or her relationship to the minor)

5. Upon receipt of the death benefit payable to the minor, your petitioner will deposit the funds in an interest-bearing savings account, money-market account, or certificate of deposit at _____, entitled in the minor's name alone, which account shall be completely restricted during the minority of _____. (State the name of the bank and the mailing address of the branch in which you intend to deposit the minor's proceeds to a restricted interest-bearing account)

6. Your petitioner will file proof of the establishment of the restricted account, in the form satisfactory to the Court, within 10 days of the receipt of the death benefit payable to the minor.

WHEREFORE, your petitioner, _____, parent and natural guardian/legal custodian of the minor beneficiary, prays this Honorable Court to authorize him/her to receive the death benefit payable to the minor child, _____, without the appointment of a guardian of the estate, and to direct that s/he immediately deposit the

proceeds to an interest-bearing bank account in the name of the minor child, access to which will be restricted during the minority of the beneficiary.

Date: _____

(Signature of the petitioner)

VERIFICATION

I, _____, Petitioner, verify that the facts stated in the foregoing *Petition for Authorization to Receive Death Benefit/Life Insurance Proceeds Payable to a Minor and to Establish a Restricted Account during Beneficiary's Minority* and the Parental Consent attached thereto, are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa. C.S.A.§4904 relating to unsworn falsification to authorities.

Date: _____

(Signature of the petitioner)

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

In re: _____ :
A Minor : File No. _____
: :
: :
: :

**Parental Consent to Establish Restricted Interest-Bearing Bank Account Upon
Receipt of Death Benefit/Life Insurance Payable to Minor**

I _____ am the mother/father and natural guardian of the
minor beneficiary of a death benefit payable by _____ by
reason of the death of _____, on _____.

I consent and agree to immediately deposit the proceeds so payable to my minor
child, _____ to an interest-bearing account at _____
_____.

I understand that:

- the bank account is to be entitled in the name of my minor child alone;
- that I must give a copy of the Court Order authorizing me to receive these proceeds on my minor child's behalf and directing me to deposit them in an interest-bearing account during his/her minority to the bank official when I open the restricted bank account;
- that I must have the bank official who opened the restricted account for my minor child fill out the form entitled, "*Affidavit of Deposit of Minor's Funds*" that will be supplied to me by the Clerk of the Orphans' Court Division;

- that I must fill out the form entitled “*Parent’s Certification of Compliance with Court Order Directing Establishment of Minor’s Restricted Account*” that will be supplied to me by the Clerk of the Orphans’ Court Division
- that I must mail or deliver the completed “*Affidavit of Deposit of Minor’s Funds*” and the completed “*Parent’s Certification of Compliance with Court Order Directing Establishment of Minor’s Restricted Account*” to the Clerk of the Orphans’ Court Division, Lehigh County Courthouse, 455 West Hamilton Street Allentown, Pennsylvania, 18101-1614, within 10 days after I have received the death benefit payable to my minor child.
- that no withdrawals will be permitted from the account during my child’s minority unless approved by the Orphans’ Court of Lehigh County Pennsylvania.

Date: _____

(Signature of Parent)

3. (attorney's name), Esquire, counsel for (petitioner's name), is authorized to retain from the proceeds the sum of \$ _____ as compensation for legal services rendered to the minor in connection with this petition and is directed to deposit immediately the balance of the proceeds payable to (minor's name), a minor, under the terms of the policy issued by (name of insurance company), on the life of (decedent's name) in an interest-bearing savings account, money-market account or certificate of deposit at (Bank/Savings & Loan/Credit Union - include branch and address) a federally insured depository, **titled “ _____, a minor”** subject to the express restriction which shall be noted upon the record of the depository and on the passbook or certificate that without further Order of this Court, no withdrawals shall be made until the minor reaches the age of eighteen (18) years, which event will occur on (date of minor's eighteenth birthday), at which time the depository shall, upon order of the former minor and without the necessity of an accounting or further order of this Court, pay the funds then on deposit in this account to the former minor.

IT IS FURTHER ORDERED that, within thirty (30) days of the date of this Order, (name of counsel to petitioner), Esquire, shall file with the Clerk of the Orphans' Court Division, a sworn acknowledgment by an authorized official of the depository, that the balance of the money as herewith allotted to the minor has been deposited in a form of savings investment entitled in the minor's name alone, subject to the restrictions on withdrawals hereinbefore imposed, and that said restrictions and the Orphans' Court file number, have been noted on the bank's records and in the passbook or on the certificate as directed; an *Attorney's Certificate of Compliance with Order Directing Deposit of Minor's Funds*, and a *Parent's/Legal Custodian's Certificate of Compliance with Order Directing Establishment of Restricted Account for Minor*.

IT IS FURTHER ORDERED that this *Order* shall constitute sufficient authority to (name of insurance company) to pay to (name of proposed recipient), in care of (counsel's name), Esquire, all proceeds payable to (minor's name), a minor, under the terms of the policy issued by it on the life of (decedent's name), deceased.

BY THE COURT:

, Judge

APPENDIX D

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

In re: _____ :
A Minor : File No.
:

PETITION FOR ACCESS TO FUNDS ON DEPOSIT FOR MINOR (under the age of 14) IN RESTRICTED ACCOUNT ESTABLISHED PURSUANT TO COURT ORDER

To the Honorable, the Presiding Judge of the Orphans' Court Division:

The petition of _____, Mother/Father of a minor under the age of 14 respectfully states:

1. Your petitioner is an adult individual residing at _____ and is the Mother/Father of _____, a minor under the age of 14 years.

2. _____ was born on _____ and is currently _____ years of age and resides at _____ with _____. *(state the minor's name, date of birth, current address and the name of the adult with whom the minor is living and that person's relationship to the minor)*

3. The name of the other parent of the minor is _____ who currently resides at _____

_____ (provide names and addresses of a parent who is not the petitioner; if the other parent is deceased, state date of death; if the current whereabouts of the other parent are unknown, so state and indicate the last time that parent had any contact with the minor)

3. By Court Order dated _____ a restricted account was established for the petitioner's minor son/daughter at _____ bank. The approximate amount of the initial deposit was _____. The approximate amount of the current balance is _____.

4. Access to the restricted account is requested because:
(State the reasons why you want to use these funds and indicate how much money you are requesting be released. Attach to this petition as much documentation that you have regarding the expense for which you are seeking funds from the restricted account, e.g. tuition bill; cost estimate; invoice, etc.)

_____.

5. The petitioner and the other parent of the minor petitioner are unable to pay for the item/course described above.

6. The written consent of the minor's other parent, _____ is attached to this petition.

OR

The consent of the minor's other parent is not attached because:

_____.

WHEREFORE, your petitioner, _____, mother/father of the minor under the age of fourteen years prays this Honorable Court to authorize him/her to withdraw \$_____ from his/her minor child's restricted account at _____ Bank which was established by Order of Court dated _____.

Date: _____

(Signature of the petitioning parent)

VERIFICATION

I, _____ petitioner, verify that the facts stated in the foregoing *Petition for Access to Funds on Deposit for Minor (under the age of 14) in Restricted Account Established Pursuant to Court Order* are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: _____

(Signature of the petitioner)

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

In re: _____ :
A Minor : File No.
: :
: :
: :

**Parental Consent to Access to Funds on Deposit for Minor (under the age of 14) in
Restricted Account Established Pursuant to Court Order**

I _____ am the mother/father of
_____, a minor under the age of fourteen years, I consent
to the authorization to withdraw _____ to be used for _____

I am unable to afford this expense.

Date: _____

(Signature of Parent)

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

In re: _____ :
A Minor : File No.
:

**PETITION FOR ACCESS TO FUNDS ON DEPOSIT FOR MINOR
(age 14 or older) IN RESTRICTED ACCOUNT ESTABLISHED PURSUANT TO COURT
ORDER**

To the Honorable, the Presiding Judge of the Orphans' Court Division:

The petition of _____, a minor age 14 or older,

respectfully states:

1. _____ was born on _____ and is currently
_____ years of age and resides at

_____. (state the minor's name,
date of birth, current address and the name of the adult with whom the minor is living and that
person's relationship to the minor)

2. The minor is the son/daughter of _____ and
_____ who currently reside at

_____. (provide
names and addresses of both parents; if the other parent is deceased, state date of death and give
address of surviving parent; if the current whereabouts of a parent are unknown, so state and
indicate the last time that parent had any contact with the minor)

3. By Court Order dated _____ a restricted account was established for the petitioner's minor son/daughter at _____ bank. The approximate amount of the initial deposit was _____. The approximate amount of the current balance is _____.

4. Access to the restricted account is requested because:
(State the reasons why you want to use these funds and indicate how much money you are requesting be released. Attach to this petition as much documentation that you have regarding the expense for which you are seeking funds from the restricted account, e.g. tuition bill; cost estimate; invoice, etc.)

5. The parent[s] of the minor petitioner is/are unable to pay for the item/course described above.

6. The written consent of the minor's Mother, _____ and/or Father, _____ is/are attached to this petition.

OR

The consent[s] of the minor's parent[s] is/are not attached because:

WHEREFORE, your petitioner, _____, the minor age 14 or older, prays this Honorable Court to authorize him/her to withdraw \$_____ from his/her restricted account at _____ Bank which was established by Order of Court dated _____.

Date: _____

(Signature of the minor petitioner)

VERIFICATION

I, _____ petitioner, verify that the facts stated in the foregoing *Petition for Access to Funds on Deposit for Minor (age 14 or older) in Restricted Account Established Pursuant to Court Order* are true and correct to the best of my knowledge, information and belief. Petitioner understands that false statements therein are subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: _____

(Signature of the petitioner)

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

In re: _____ :
A Minor : File No.
: :
: :

I/We _____ am/are the
mother/father of _____, a minor, age 14 or older, I/we consent to
the authorization to withdraw _____ to be used for

I/we am/are unable to afford this expense.

Date: _____

(Signature of Parent)

Date: _____

(Signature of Parent)