

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
PRESIDENT JUDGE GENERAL COURT REGULATION NO. 2001-01

In Re: Amendment of Philadelphia Orphans' Court
Rules 6.3.A., 6.10.A., 7.1.A., 1.2.B., 1.2.K., and 3.2.A.

ORDER

AND NOW, this 23rd day of May, 2001, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 17, 2001 to amend Philadelphia Orphans' Court Rules 6.3.A., 6.10.A., 7.1.A., 1.2.B., 1.2.K and 3.2.A., IT IS HEREBY ORDERED that Philadelphia Orphans' Court Rules 6.3.A., 6.10.A., 7.1.A., 1.2.B., 1.2.K., and 3.2.A., are amended as attached, effective July 2, 2001.

This General Court Regulation is issued in accordance with Pa.O.C. Rule 1.2, and shall become effective July 2, 2001. As required, the original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, and copies shall be submitted to the Clerk of the Orphans' Court, the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau and the Orphans' Court Procedural Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

FREDERICA A. MASSIAH-JACKSON
PRESIDENT JUDGE,
COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY

Amendments to Philadelphia Orphans' Court Rules

Key:

Strikethrough = Old language
Underline = New Language

Rule 6.3.A *Time and Contents of Notice.*

Notice shall be given at least fifteen (15) days prior to the audit and shall set forth:

(2) that (except as to non-residuary legatees or claimants whose legacies or claims have been or will be satisfied in full) a copy of the account and a copy of the will or trust instrument accompany the notice, or have been furnished previously, or will be sent upon request, as the case may be, and that any person who objects to the transactions shown in the account or in the notice, must appear in person or by counsel at the audit ~~under penalty that~~ and file written objections with the Clerk in accordance with Rule 6.10.A, or the Court may otherwise assume that there is no objection and may approve the account as stated.

(3) the accountant's understanding of the nature of the claim, interest or objection of the party notified; whether the claim, interest or objection is admitted or contested; if admitted, whether it will be paid in full or in part, and, if contested, that an appearance in person or by counsel must be made at the audit ~~to press any such claim, interest or objection~~ and that written objections must be filed with the Clerk in accordance with Rule 6.10.A, or the claim or objection may be dismissed.

(5) the accountant's interpretation of any dispute, or fairly disputable question, known to or reasonably ascertainable by the accountant, together with a copy of the instrument or material parts thereof containing any provision which forms the basis of the dispute, and a statement that if the person notified does not agree with the accountant's interpretation, he or she must appear at the audit in person or by counsel ~~to present his or her contention, under penalty for failure to appear, that the Court will~~ and file written objections with the Clerk in accordance with Rule 6.10.A, or the Court may assume that he or she agrees with the accountant's interpretation.

Rule 6.10.A *Objections:* Written Objections.

Written objections to an account or statement of proposed distribution ~~shall be filed with the Clerk of the Orphans' Court the later of twenty (20) days after service on the account or statement~~

Adopted by Board of Judges of the Court of Common Pleas on May 17, 2001

of proposed distribution on the objectant, or within twenty (20) days after the date the account is first called for audit must be in writing and shall be filed with the Clerk of the Orphans' Court no later than the time and date fixed for the original call of the account for audit, unless otherwise specified by Order of Court.

Probate Section Comment: See Rule 6.3.B, which provides for supplemental notice to parties in interest when an audit is continued.

Rule 7.1.A Exceptions. Rules Governing.

Old (1) -- (4) PREEMPTED BY STATE LAW (enacted January 1, 2001)

- (1) Exceptions shall be in writing, numbered consecutively, and signed by the exceptant or the exceptant's attorney. Each exception shall:
- (a) be specific as to description and amount;
 - ~~(b) in no event raise questions which could have been raised previously by claim or objection;~~
 - (c) raise ~~but one~~ and only one issue of law or fact, but if there are several exceptions relating to the same issue of law or fact, all such exceptions shall be included in one exception; and
 - (d) set forth briefly the reason or reasons in support of the exception.

(2) The Hearing or Auditing Judge shall issue a scheduling order setting forth dates for filing of briefs and oral argument.

(3) Exceptions shall be disposed of by the Hearing or Auditing Judge, sitting alone, unless the Administrative Judge, at the request of the Hearing or Auditing Judge, refers a matter, in whole or in part, to the court *en banc* for disposition. Only the Administrative Judge, acting at the request of the Hearing or Auditing Judge, may refer a matter to the court *en banc*.

Court Comment: This is the exclusive method by which a matter may be referred to the court *en banc*. The Court will not entertain any petitions, letters or other correspondence requesting that a matter be referred to the court *en banc*.

Probate Section Comment: See Pa. O.C. Rules 7.1 and 7.2 regarding exceptions.

Rule 1.2.B Court En Banc. (Note: Administrative Order of December 4, 2000 repealed the old rule)

(1) The court *en banc* shall sit at a time designated by the Administrative Judge of the

Orphans' Court Division.

(2) The court *en banc* shall convene only to hear exceptions referred to it pursuant to Rule 7.1.A(3).

(3) The Administrative Judge shall issue a scheduling order setting forth briefing requirements, and dates for filing of briefs and oral argument before the court *en banc*.

Rule 1.2.K Corporate Fiduciaries. Approval. Security.

(1) In General. ~~Corporations~~ Financial institutions having fiduciary powers and authorized to do business in this Commonwealth, upon petition and pursuant to approval by the Court, may act as fiduciaries in matters pending in the Court, provided that a current copy (either the original or photocopy) of the certificate evidencing the approval of the state banking department, or a certified copy of the certificate from the Federal Reserve Board granting the right to exercise fiduciary powers, is on file with the Clerk to conduct fiduciary activities issued by the appropriate state or federal banking regulator is attached to the petition. The institution shall certify in the petition that the certificate has been issued by the appropriate regulator and is valid as of the date of the petition.

(2) Period of Approval. The approval granted by the Court under paragraph (1) of this Rule shall be for a period of one year, ~~and, thereafter, annually, subject, however, running from January 1 to December 31. In order for approval to be granted or renewed in a timely fashion, an institution must file said petition on or before December 15 in the year preceding the year in which the institution wishes to act as a corporate fiduciary. The approval granted by the Court is subject to compliance by the institution with these Rules and with such other rules and regulations governing approval or renewal as the Court will, from time to time, promulgate.~~

(3) Security. Except when required by statute or for special cause shown, bond will not be required of an approved corporate fiduciary.

Rule 3.2.A Pleadings.

(3) Preliminary Objections

Adopted by Board of Judges of the Court of Common Pleas on May 17, 2001

(a) Preliminary objections shall be limited to questions of (i) law, (ii) form, or (iii) jurisdiction, and may be filed by any party, and shall be accompanied by one original brief prepared in conformity with Rule 1.2.B.(4)(a)(i)-(ii), (v)-(viii), (4)(c) and (4)(d).

(b) An answer to preliminary objections shall be accompanied by one original brief, prepared in conformity with Rule 1.2.B.(4)(a)(i)-(ii), (v)-(viii), (4)(c) and (4)(d), and shall be filed within twenty (20) days after service of the preliminary objections and accompanying brief.

April 23, 2001

Orphans' Court Rules Changes