

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

No. 5 of 2025

President Judge General Court Regulation

In re: Adoption of Philadelphia Court of Common Pleas Orphans' Court Rule 5.16B, 7.1A, and 14.4

ORDER

AND NOW, this 16th day of May, 2025, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 15, 2025, to adopt Phila. O.C. Div. Rules 5.16B, 7.1A, and 14.4 as attached to this Order, and as required by Pa.R.J.A. 103, the Supreme Court Civil Procedural Rules Committee has reviewed the attached local rules, has determined that Phila. O.C. Div. Rules 5.16B, 7.1A, and 14.4 are not inconsistent with applicable statewide rules, and has authorized their promulgation.

NOW, therefore, it is hereby ORDERED and DECREED that ***Philadelphia Court of Common Pleas Orphans' Court Rules 5.16B, 7.1A and 14.4*** are adopted, as attached, effective thirty days after publication in the *Pennsylvania Bulletin*.

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

BY THE COURT:

/s/ Nina Wright Padilla

NINA WRIGHT PADILLA
President Judge, Court of Common Pleas
Philadelphia County

Phila. O.C. Div. Rule 5.16B
Rule 5.16B. Procedure for Determination of Title to Decedent's Interest in Real Estate
Under 20 Pa.C.S. § 3546

(1) Contents of Petition. A petition under 20 Pa.C.S. § 3546 for the determination of title shall set forth:

- (a) the name of the petitioner and petitioner's relationship to the decedent;
- (b) the facts on which the claim of the petitioner is based;
- (c) whether the decedent died testate or intestate, and where, when, and to whom letters were granted;
- (d) a description of real property located within the Commonwealth, the place, book, and page of recording the last deed thereto, and the Office of Property Assessment Account number assigned to the real property;
- (e) the names and addresses of all known creditors and interested parties which shall include the Pennsylvania Department of Revenue, Office of Chief Counsel, if heirs to the decedent are unknown;
- (f) the facts material to a determination of the title; and
- (g) a prayer for a Citation, directed to all interested parties and known creditors to show cause why title to the decedent's interest in the real property should not be in Petitioner's name;

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

- (a) a copy of decedent's will, deed, trust agreement, or other instrument of conveyance (if any) pertaining to the real property for which relief is requested; *and*
- (b) any consents to the relief requested signed by interested parties who have not joined in the Petition or any signed statements by interested parties who do not object to the relief requested in the Petition.

(3) Service of Citation and Notice. Service of the citation and notice on all interested parties shall be made in accordance with Pa. R.O.C.P. 3.5(a).

(4) Decree. There shall be attached to the face of the petition:

- (a) A preliminary decree in approved form awarding a citation as requested in the petition and imposing all notice requirements enumerated in 20 Pa.C.S. §3546(f); and
- (b) A final decree in approved form providing for the relief requested or other appropriate relief as the court determines.

Probate Section Comment: As of 2024, notice to the Pennsylvania Department of Revenue, Office of Chief Counsel, may be sent to P.O. Box 281061, Harrisburg, PA 17128-1061.

Phila. O.C. Div. Rule 7.1A.

Rule 7.1A. Philadelphia Orphans' Court Division Practice.

- (1) Except upon agreement of counsel, leave to take depositions, or obtain discovery or the production of documents, may be granted only on petition upon cause shown.
- (2) Where leave has been granted by the Court, the procedure relating to depositions, discovery, and the production of documents shall be governed by the order of the Court.
- (3) In the event a Trial Judge, on the Judge's own motion, or on the motion of a party finds that matters raised should be heard by a court *en banc*, the matter should be referred to the Administrative Judge of Orphans' Court to determine if an Order should be entered to schedule the matter before an *en banc* panel using the procedures provided in Pa.R.C.P. 227.2.

1. Appointment of Counsel in Orphans' Court Guardianship Cases & Eligibility

- (A) Regardless of the ability of the alleged incapacitated person to pay, the court shall appoint counsel to represent the alleged incapacitated person in any matter for which counsel has not been retained by the alleged incapacitated person, including in all proceedings under 20 Pa.C.S. §§ 5511 *et seq.* and in any subsequent proceedings to consider, modify or terminate a guardianship.
- (B) To be eligible for appointment as court-appointed counsel for the alleged incapacitated person, counsel must comply with the following requirements:
 - 1. Counsel has had within the last fiscal year an active law practice in Philadelphia County;
 - 2. Counsel or their firm maintain a current Commercial Activity License (linked) issued by the City of Philadelphia;
 - 3. Counsel must complete and submit to Orphans' Court an Application for Orphans' Court Guardianship Certification (insert link);
 - 4. Counsel must be a member in good standing of the Pennsylvania Bar;
 - 5. Counsel must obtain a Certificate of Attendance at a Court Approved Continuing Legal Education seminar on Guardianship or provide the Court with evidence of equivalent experience;
 - 6. After the initial year of eligibility, to remain on the Court Approved Counsel Appointment List, counsel must obtain a Certificate of Attendance at a Court Approved Continuing Legal Education seminar on Guardianship by the end of the calendar year;
 - 7. Counsel must have Professional Liability Insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year and certify, upon filing the required Petition for Allowance, that they maintain Professional Liability Insurance required by this Rule.

2. Responsibilities of Court-Appointed Counsel in Orphans' Court Guardianship Cases

- (A) Shortly after the Petition for Citation to Appoint a Guardian is filed, the Court will issue a Decree appointing counsel to represent the alleged incapacitated person and serve a copy of this Decree on court-appointed counsel.
- (B) Upon appointment, counsel shall fully and completely review the petition for guardianship and supporting documentation.
- (C) Counsel shall comply with the Rules of Professional Conduct and advocate for the client's expressed wishes consistent with the client's instructions, to the extent the client is able to express wishes and provide instruction.
- (D) Court-appointed counsel shall meet with the alleged incapacitated person as soon as reasonably possible after the appointment but no later than ten days after the appointment. Within five days of the initial meeting, appointed counsel shall file with the court a certification of the time and place that the meeting occurred.
- (E) Upon review of the expert report, court appointed counsel should determine if an independent expert is needed and if so, make an appropriate timely request to the assigned judge within

5 days of receipt of the expert report.

- (F) Court-appointed counsel must appear in all court proceedings to represent the client. Representation shall continue for the duration of the matter including subsequent proceedings and review hearings. See 20 Pa.C.S. § 5511(a.1)(2).

Payment Authorization and Compensation for Court-Appointed Counsel in Orphans' Court Guardianship Cases

- (A) The Clerk of Orphans' Court waives all filing fees and costs for court-appointed counsel.
- (B) Compensation will be as follows:
 - (1) Court appointed counsel with one to five years of practice shall be paid a fair and reasonable fee at a rate of \$250 per hour for services rendered.
 - (2) Court appointed counsel with five plus years of practice shall be paid a fair and reasonable fee at a rate of \$300 per hour for services rendered.
 - (3) After the initial hearing, and after filing of the inventory, counsel shall file a Petition for Allowance seeking approval of attorneys' fees. In those cases in which a Guardian of the Estate has been appointed, however, the Petition for Allowance shall be filed after the inventory has been filed.
 - (4) Counsel may file subsequent petitions for allowance if additional attorneys' fees are incurred thereafter with respect to the Petition.
 - (5) Counsel shall record their time and submit the time records along with the Petition for Allowance.
 - (6) The Court will review the Petition for Allowance for fairness and reasonableness of the fees charged for the services rendered and issue a Decree stating the approved amount.
- (C) Per 20 Pa.C.S. § 5511(c), if the alleged incapacitated person is unable to pay fair and reasonable counsel fees, counsel fees will be paid promptly, upon approval of the Court, by the City and County of Philadelphia. These costs will be reimbursed by the Commonwealth of Pennsylvania in the next fiscal year.
- (D) For any fee not paid within 30 days of presentation by court appointed counsel of a Court order or Decree authorizing payment of fees, the City and County of Philadelphia shall be assessed an interest fee in the amount of 1.5% per month or part of a month until payment is made.