

First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia County
Orphans' Court Division



LOCAL RULES

Updated 11-20-24

PHILADELPHIA COUNTY ORPHANS' COURT RULES

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PHILADELPHIA COUNTY ORPHANS' COURT FORMS

Orphans' Court Division Cover Sheet

Account Filing Checklist – Decedent's Estate

Account Filing Checklist – Trust (Testamentary/*Inter Vivos*)

Account Filing Checklist – Agent under Power of Attorney

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Appeal from Register of Wills

Excerpt from Schedule of Distribution

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PHILADELPHIA ORPHANS' COURT DIVISION RULES

CHAPTER I. PRELIMINARY RULES

Rule 1.1A. Short Title and Citation.

These Rules shall be known as the Philadelphia Orphans' Court Rules, shall be referred to individually herein as "Rule," and shall be cited as "Phila. O.C. Rule _____."

Rule 1.3A. Definitions.

"Legal Periodical" - *The Legal Intelligencer* shall be the legal periodical for the publication of legal notices in Philadelphia County, whenever publication in a legal periodical is required by Act of Assembly, or by Rule or order of Court.

Rule 1.8(c). Forms.

- (1) Legal papers shall be accompanied by an Orphans' Court Cover Sheet as set forth in the Appendix to these Rules.
- (2) Petitions for Adjudication/Statements of Proposed Distribution filed in accordance with Pa. O.C. Rule 2.4 and Phila. O.C. Rule 2.4B shall include an Account Filing Checklist as set forth in the Appendix to these Rules.
- (3) Local Orphans' Court forms are set forth in the Appendix.

Note: Amended May 1, 2019, effective June 1, 2019.

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.4A. Additional Receipts and Disbursements.

Receipts and disbursements subsequent to the date to which the account was stated and to be included in the adjudication shall be set forth in the Petition for Adjudication/Statement of Proposed Distribution and in the audit notice.

Probate Section Comment: Generally, appearance slips should be used to inform the Court of minor errors or discrepancies in the account, or additional filing fees and other nominal expenses incurred by the accountant since the closing date of the account that are to be included in the adjudication.

Rule 2.4B. Papers to Be Filed With Accounts.

(1) All Accounts. Counsel shall electronically file the following papers contemporaneously with the account:

- (a) account filing checklist;
- (b) a Petition for Adjudication/Statement of Proposed Distribution;
- (c) copies of all agreements with respect to settlements and compromises;
- (d) copies of agreements, if any, with respect to the accountant's compensation, if credit therefor is taken in the account or requested at the audit;
- (e) a waiver of an income accounting by those entitled to the income, if the account does not contain a complete income accounting and such a waiver is not attached to the account;
- (f)) the official receipt for any inheritance tax paid during the period of the accounting; and
- (g)) a statement of the method and date of giving notice to all interested parties of the filing of the account and the Petition for Adjudication/Statement of Proposed Distribution and of the time of the audit, or alternatively, an averment that such notice shall be given and a certification thereof shall be submitted at the audit as hereinafter set forth. In those instances where notice has been given, a copy of said notice, as well as the names and addresses of the parties notified, shall be appended to the Petition for Adjudication/Statement of Proposed Distribution. In those instances where notice is yet to be given, a copy of said notice, as well as the names and addresses of the parties notified, shall be submitted to the Court at audit, together with a statement executed by the accountant or the accountant's counsel certifying that notice has been given.

(2) Accounts of Personal Representatives. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a personal representative, counsel shall electronically file:

- (a)) a copy of the original letters, together with proof of advertisement thereof; and
- (b) a copy of the inventory and of the will and codicils, certified by the accountant or counsel to be true and correct.

(3) Accounts of Trustees. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee, counsel shall electronically file a copy of the trust instrument, certified by the accountant or counsel to be true and correct.

(4) Accounts of Trustees of Special Needs Trusts. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a trustee of a special needs trust, counsel shall electronically file:

- (a) a copy of the trust instrument, certified by the accountant or counsel to be true and correct;
- (b) letter of No Objection from counsel for the Pennsylvania Department of Human Services; and
- (c) statement of method and date of notice to Pennsylvania Department of Human Services Special Needs Trust Depository and Social Security Administration.

(5)) Accounts of Guardians of the Estates of Minors. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of a minor, counsel shall electronically file:

- (a) a copy of the will, deed or decree by which the guardian was appointed;
- (b) a statement that notice of the audit has been given to all known, unpaid claimants;
- (c) a statement of the former minor or, if the former minor has been adjudicated an incapacitated person, of the guardian of the estate of the former minor, setting forth the date the former minor attained majority; and that the former minor or the guardian of the estate of the former minor:
 - (i)) has examined the account;
 - (ii) approves the account and requests that it be confirmed; and
 - (iii) at the guardian of the estate of the minor shall be discharged upon distribution to the former minor or to the guardian of the estate of the former minor of the balance shown in the account, subject to such additional credits as may be authorized by law and set forth in the adjudication.

(6)) Accounts of Guardians of the Estates of Incapacitated Persons. In addition to the papers required by Rule 2.4B(1), at the time of the filing of an account of a guardian of the estate of an incapacitated person, counsel shall electronically file:

- (a) a statement of the manner and date of appointment of the guardian and a copy of the decree by which the guardian was appointed; and
- (b) a statement of whether a personal representative has been appointed if the incapacitated person is deceased; and if so, the date and place of grant of letters and a valid certificate of appointment.

(7) Accounts of Agents under Power of Attorney. In addition to the papers required by Rule 2.4B(1), at the time of filing an account of an agent under power of attorney, counsel shall electronically file a copy of the power of attorney, certified by the accountant or counsel to be true and correct.

(8) Distribution to Foreign Fiduciary. In addition to the papers required by Rule 2.4B(1), at the time of filing an account, when a share of the estate is distributable to a foreign fiduciary, counsel shall electronically file:

- (a) a certificate of appointment issued within three months of the date of the filing or a copy of the instrument evidencing the authority of the fiduciary to receive the fund, certified by the proper authorities at the place of issuance to be in effect at the time of the filing;
- (b) an affidavit by the foreign fiduciary setting forth whether or not an ancillary administrator has been appointed in Pennsylvania, together with averments that:
 - (i)) the foreign fiduciary is authorized, under the laws of the jurisdiction in which the foreign fiduciary qualified, to receive the fund to be distributed;
 - (ii) the filing of security has been waived, or the amount of the bond which has been filed and the name of the surety; and
 - (iii) are no creditors within the Commonwealth of Pennsylvania of the estate for which the foreign fiduciary has been appointed and no rights of any resident of Pennsylvania will be adversely affected by the requested distribution.

Probate Section Comment: The requirements of paragraph (8) are based on 20 Pa.C.S. § 4101 et seq. Particular attention is directed to Section 4111 and its correlation with paragraph (8)(b)(iii) of the Rule. Under Section 4111, the Court has broad discretionary power to refuse distribution of a share of an estate to the domiciliary personal representative of a deceased nonresident creditor or other distributee and to require an ancillary administration in Pennsylvania.

Rule 2.5A. Advertisement of Accounts. Posting.

The Clerk shall give notice of all accounts and of the time and place of the call of the audit list by:

- (1) advertising once a week for two (2) successive weeks in *The Legal Intelligencer* and in one (1) Philadelphia daily newspaper of general circulation; and
- (2) posting copies of the audit lists in the office of the Clerk.

Rule 2.6A. Filing for a Particular Audit.

An account to appear on a particular audit list must be electronically filed not later than 3 p.m. on the fifth Wednesday preceding the day on which such list will be called.

Rule 2.6B. When Audit Lists Called. Postponed or Adjourned.

Generally, the audit lists shall be called during the week beginning with the second Monday of September and the weeks beginning with the first Monday of other months. The call of an audit list may be postponed or adjourned at the discretion of the Auditing Judge or the Court. When the first Monday of the month falls on a holiday on which the Courts are closed, the audit list shall be called on the next business day.

Rule 2.7A. Appearances at Audit.

Counsel for the accountant, the accountant, and any other interested party appearing *pro se* who desires to raise objections or otherwise be heard, shall personally appear at the call of the audit list and enter an appearance on the form supplied by the Court.

Rule 2.9A. Schedules of Distribution.

- (1) Filing. When directed by the Auditing Judge or at the election of the accountant, a schedule of distribution, in the form approved by the Court, shall be electronically filed with the Clerk. The Auditing Judge, in his or her discretion, may direct that only awards of real property or personal property, to be distributed in kind, need be included in the schedule of distribution.
- (2) Certification. The attorney for the accountant shall certify that the schedule of distribution is correct and in conformity with the adjudication. See below (3)(a), (3)(b)(ii) and (6)(b) for additional statements to be included in the certification where appropriate.
- (3) Consent or Notice.
 - (a) Written consents to the schedule of distribution may be attached thereto. The attorney for the accountant shall certify whether or not the

parties whose consents are attached constitute all interested parties affected by the filing of the schedule of distribution and all other parties to whom notice was directed by the Court.

(b) Notice of the filing of the schedule of distribution shall be given to all interested parties affected thereby and to such other parties as the Court may direct, except those parties whose consents are attached. The notice shall state the date of filing, that a copy of the schedule of distribution accompanies the notice or will be sent upon request, and that any party who objects to the schedule of distribution must electronically file objections within twenty (20) days of the filing of the schedule of distribution under penalty that the Court may otherwise assume that there is no objection and may approve the schedule of distribution as filed.

(i) Notice shall be given no later than the day of the filing of the schedule of distribution, by a letter addressed to the last known address of the party or to his or her attorney of record.

(ii) It shall be sufficient return of notice for the attorney for the accountant to certify on the schedule that due notice of the filing thereof was given as required by this Rule. A copy of the letter of notice and a list of those to whom notice was sent shall be submitted with the schedule.

(4) Objections.

(a) Objections may be electronically filed within twenty (20) days of the filing of the schedule of distribution, and shall indicate the basis for the objections and in what respect the schedule of distribution fails to conform to the adjudication. In no event may objections raise questions which actually were or could have been raised at the audit of the account.

(b) Objections shall be electronically filed with the Clerk. The Auditing Judge shall re-examine the subject matter; may hold a hearing or argument thereon, at the Auditing Judge's discretion; and may make such disposition of the objections as the Auditing Judge deems proper in a supplemental adjudication.

(5) Approval.

(a) Where the consents of all necessary parties are attached, the Court may approve the schedule of distribution immediately upon filing. Where notice was given to any party, the Court may approve the schedule of distribution twenty (20) days after the filing thereof.

(b) In the absence of objections, the schedule of distribution shall become absolute on the date of approval thereof.

(c) Where objections have been filed and dismissed, the schedule of distribution shall be approved.

(d) Upon approval of the schedule of distribution, the accountant shall have the authority to make necessary assignments and transfers of any property awarded.

(6) Confirmation of Title to Real Property. Approval of the schedule of distribution shall constitute confirmation of title in the distributees.

(a) Separate Awards. A schedule of distribution shall set forth separate awards of real property in separate paragraphs.

(b) Description. Certification by Counsel. Real property shall be described in the same detail and with the same particularity as is commonly required to be included in deeds, and, in addition, shall include information pertinent to the derivation of title. Counsel for the accountant shall certify that counsel or counsel's agent has examined the last recorded deed or the record thereof in the public office for recording deeds in the county in which the real estate is located and that the description in the schedule of distribution is in conformity therewith.

(c) Certification by Clerk. The Clerk shall, upon request, certify excerpts from an approved schedule of distribution for recording in any public office for recording deeds.

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

Rule 2.10A. Content of Report for Foreign Heirs and Unknown Distributees.

The report required by Pa. O.C. Rule 2.10(b) shall be submitted at the audit, and shall include, substantially, the following:

(1) Unknown Distributee. If it appears that the identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit a written report, verified by affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

(a) the nature of the investigation made to locate the heirs of the decedent, in complete detail; and

(b) in cases of intestacy, or where there are no known heirs, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

The term "investigation," as used in this Rule, shall include inquiry of or as to as many of the following as may be pertinent and feasible: residents of the household in which the decedent resided; friends and neighbors; labor union membership; places of

employment; social, fraternal, or beneficial organizations; insurance records; church membership; school records; social security, Veterans' Administration, or military service records; naturalization records, if not native born; and such other sources of information as the circumstances may suggest.

(2) Non-Resident Distributee. If the fiduciary requests the Court to withhold distribution to a non-resident distributee, he shall submit a written report, verified by the affidavit of the fiduciary and counsel for the fiduciary, in which shall be set forth:

- (a) the relationship of the distributee to the decedent, and any available information concerning the distributee's present whereabouts;
- (b) in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and
- (c) the reasons for the request that distribution be withheld, and the suggested manner of withholding.

Rule 2.11A. Charitable Trusts. Visitorial Powers.

(1) Exercise: In General. In the exercise of its visitorial and supervisory powers over charitable trusts, in general, the Court will, in its discretion, from time to time, by general rule or special order, direct the official examiner, or a special examiner appointed for the purpose, to make an examination of the assets of a designated trust and an investigation to determine whether the purposes of the trust are being carried out in the manner provided by the trust agreement; and to submit to the Court a written report thereon which shall follow as nearly as may be the form prescribed by Pa. O.C. Rule 9.4 for a master's report and shall contain specific recommendation for the Court's consideration.

(2) Cemetery Trusts. In the exercise of its visitorial and supervisory powers over cemetery trusts, the Court will, from time to time, appoint a cemetery trust examiner, or examiners, who shall, periodically, inspect all cemetery lots and places of interment or sepulcher maintained under cemetery trusts subject to the jurisdiction of the Court; audit, informally, trustee's accounts pertaining thereto; examine the assets thereof; and submit written reports thereon to the Court in accordance with such rules and regulations as the Court will, from time to time, promulgate.

Rule 2.11B. Termination of Trust.

A trustee making distribution of the corpus of a trust upon its termination without formal accounting shall obtain from the distributees a receipt and waiver of accounting which shall be delivered to the examiner and attached to the examiner's report thereof. Such receipt and waiver shall not constitute an approval by the Court of the administration of the trust, nor operate as a discharge by the Court of the trustee or the trustee's sureties.

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If an estate is distributed without an accounting, the fiduciary shall be personally liable for the compensation of the examiner, unless provision is made therefor at the time of distribution.

Rule 2.11C. Compensation.

(1) In General. Each estate shall be liable for the compensation of the examiner based upon a schedule of fees fixed by the Court or as determined by the Court.

(2) Cemetery Trusts. The cemetery trust examiner, or examiners, appointed under Rule 2.11A supra, shall be paid by the trustees in an amount fixed by the Court.

CHAPTER III. PETITION PRACTICE AND PLEADING

Rule 3.4A. Exhibits, Consents, Approvals, Checklists, and Attachments.

Exhibits, consents, approvals, checklists, and attachments shall meet the requirements of Pa. O.C. Rule 1.8 and Rule 1.8A.

Rule 3.5A. Procedure for Determination when No Response is Filed to a Petition under Pa.R.O.C.P. 3.5(a) or 3.5(b)

- (1) When a party to whom a citation issued under Pa.R.O.C.P. 3.5(a), or to whom a petition with notice under 3.5(b) is directed, has not filed an answer or preliminary objection within the response time provided by law, the petitioner may file a praecipe for an order or decree, which shall include:
 - (a) A proposed form of order or decree;
 - (b) A concise explanation of the procedural posture of the matter identifying the pleading to be disposed of; and
 - (c) Specific averments as to the exact nature of service of the underlying petition, and a copy of the appropriate certification or proof of service.
- (2) The party filing a praecipe for an order or decree must serve all interested parties with the praecipe according to the provisions of Pa.R.O.C.P. 4.3 no later than the date that the praecipe is filed, and shall attach a certificate of service listing the names and addresses of those individuals and entities who were served with the praecipe, and by what means they were served.
- (3) Upon receipt of a praecipe for an order or decree, the Court may issue an order or decree granting any of the following relief:
 - (a) A hearing;
 - (b) An off-the-record or on-the-record conference;
 - (c) Disposition on the pleadings already of record; or
 - (d) Such other relief as is appropriate.
- (4) Upon issuance of an order or decree described hereunder, the party requesting the order or decree shall serve the order or decree on the party to whom the citation or petition with notice was directed according to the provisions of Pa.R.O.C.P. 4.3,

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and shall file of record a certification of service within 10 days of the date of the order or decree, listing the names and addresses of those individuals and entities who were served, and by what means they were served.

(5) A party to whom an order or decree described hereunder is directed may, within 20 days of the entry of such an order or decree, file a petition to vacate the order or decree. This petition shall include:

- (a) A concise explanation of why no timely answer, preliminary objection, or other response was filed; and
- (b) The answer, preliminary objection, or other response which the party seeks leave to file.

Upon review of such a petition and for cause shown, the Court may vacate the order or decree, and permit an appropriate responsive pleading to be filed within such time as it shall determine.

Probate Section Comment: The period for filing an appeal is not tolled by the filing of a petition to vacate an order or decree unless the Court grants the petition to vacate before the expiration of the appeal period. Nothing herein precludes the Court from entering appropriate relief after the response time provided by law has expired if no praecipe for an order or decree is filed. This Rule does not apply to Petitions for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person.

CHAPTER IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT: ELECTRONIC FILING

Rule 4.2A. Method. Absentee Individuals and Presumed Decedents.

Whenever notice is to be given to an absentee or a presumed decedent, it shall be given in the manner provided by Act of Assembly, or, in the absence thereof, in such manner as the Court by special order shall direct.

Rule 4.7A. Electronic Filing and Service of Legal Papers.

- (1) Electronic Filing. Parties shall file all legal papers with the Clerk by means of electronic filing.
- (2) Website, Username and Password.
 - (a) Website. The Orphans' Court Electronic Filing System shall be available at all times at the Court's website address, <http://courts.phila.gov>, or at such other website as the Court may designate from time to time.
 - (b) Username and Password. To obtain access to the Orphans' Court Electronic Filing System, counsel or a party not represented by counsel ("filing party") shall apply for a Username and Password at the Court's website.
- (3) Electronic Filing of Legal Paper.
 - (a) A filing party shall file all legal papers and exhibits at the Court's website.
 - (b) The Clerk shall not maintain a hard copy of any legal paper or exhibit filed electronically under this Rule.
 - (c) A hard copy of the legal paper shall be signed and, as required, verified prior to the electronic filing of the legal paper, and the filing party shall retain such hard copy as required by Pa. O.C. Rule 4.7(c).
- (4) Confidential Information. Confidential Documents
 - (a) When a filing (including exhibits) contains any of the confidential information listed in Section 7 of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts ("UJS Case Records Policy"), the filer shall file a Redacted Version and an Unredacted Version of the filing as provided in Phila.R.J.A. No. *401.
 - (b) The confidential documents listed in Section 8.0 A of the UJS Case Records Policy shall be filed with a Confidential Document Form, as provided in Phila.R.J.A. No. *401.

(c) The Clerk shall provide public access to the Redacted Version of the document in accordance with Sections 9 and 10 of the UJS Case Records Policy and Phila.R.J.A. No. *401.

(d) The Parties and their attorneys shall be solely responsible for complying with the provisions of the UJS Case Records Policy and Phila.R.J.A. No. *401.

(5) Filing Date.

(a) Immediately upon receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been received by the Court's Electronic Filing System.

(b) Within six (6) business hours of receipt of the legal paper, the Clerk shall provide the filing party with email notification that the legal paper has been accepted for filing or rejected.

(c) A legal paper accepted for filing shall be deemed to have been filed as of the date and time it was received by the Court's Electronic Filing System. If a legal paper is rejected, the Clerk shall specify the reason. Subject to the provisions of subsection (d), a rejected legal paper shall be deemed as not having been filed.

(d) Any filing party for whom the failure of the Court's website or the erroneous rejection of a legal paper resulted in an untimely filing may file a petition requesting that the legal paper be deemed filed as of the submission date. Such petition shall state the date and time of the alleged failure or rejection. A petition alleging failure of the Court's website shall state why the legal paper could not be timely filed in person in the Clerk's office. A petition alleging erroneous rejection of a legal paper shall state why the rejection was erroneous and why the legal paper could not be timely re-submitted.

(6) Automation Fee. Payment of Filing Fees.

(a) The Clerk shall collect, in addition to all other applicable fees, an automation fee of \$10.00 for each legal paper for which a filing fee is now charged.

(b) The Clerk is authorized to charge the sum of \$1.00 per page for each page of a legal document or exhibit which is not filed in pdf.

(c) All fees collected pursuant to this Rule shall be set aside by the Clerk and remitted to the First Judicial District and shall be used by the Court consistent with Pa. O.C. Rule 4.7(f)(2).

(d) The Clerk shall not accept a legal paper as filed before payment of the required filing fee.

(7) Local Procedures. The Court may develop further administrative procedures, as needed, to implement this Rule and to provide for security of the electronic filing system,

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as required by changing technology. All such administrative procedures shall be posted on the Court's website.

Note: Subsection (4) amended December 4, 2017; published in the Pennsylvania Bulletin on December 23, 2017 effective January 6, 2018.

CHAPTER V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS

Rule 5.2A. Family Exemption. Additional Requirements.

(1) Contents of Petition. A petition for the family exemption shall also set forth in separate paragraphs:

- (a) the name, residence and date of death of decedent;
- (b) 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 at the date of his death;
- (c) if petitioner is the surviving spouse, the date and place of the ceremonial marriage, and the name and official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;
- (d) whether the decedent died testate or intestate; where, when, and to whom letters were granted; if decedent died intestate, the names, relationship, and addresses of those interested as next of kin;
- (e) the location and valuation of the property claimed; and
- (f)) that notice has been given in accordance with Pa. O.C. Rule 3.5 to the personal representative or, when no letters have been granted, to the parties adversely affected.

(2) Exhibits. In addition to those otherwise required, the following exhibits shall be attached to the petition:

- (a) a copy of the will;
- (b) a copy of the inventory showing the valuation of the property claimed, when the exemption is claimed from personal property, and the gross estate exceeds the amount of the family exemption provided by law; and
- (c) a verified return of notice.

Rule 5.2B. Allowance for Family Exemption.

(1) Prior to Audit. The petition may be electronically filed with the Clerk at any time prior to audit in order that the demand may be a matter of record.

- (a) Personal Property. If the petition requests the exemption prior to audit, the petitioner shall electronically file the petition with the Clerk and thereafter shall give twenty (20) days' written notice of such filing to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of a responsive pleading, on presentation of a verified return of notice, an appropriate decree may be entered.
- (b) Real Property. If the petition requests the exemption prior to the audit and the interested parties do not agree upon the valuation, the practice

and procedure shall be as provided by Pa. O.C. Rule 5.2(a) and Rule 5.2C.

(2) At Audit. The filing of the petition prior to audit shall be brought to the attention of the Auditing Judge, or the request may be presented at the audit. The Auditing Judge may require that the property claimed be appraised or that notice be given in such manner as the Auditing Judge shall direct.

Rule 5.2C. Appraisal. Notice. Confirmation.

(1) Filing of Appraisal. The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.

(2) Notice of Appraisal. Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate for the family exemption will be requested and may be allowed by the Court, of which not less than twenty (20) days' notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court shall direct.

(3) Confirmation and Setting Apart of Allowance. In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

Rule 5.3A. Allowance to Surviving Spouse of Intestate. Additional Requirements.

(1) Contents of Petition. A petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

- (a) the information required in a petition for family exemption under Rule 5.2A, as far as appropriate;
- (b) the death of decedent, intestate, without issue or adopted children; the names, addresses, and the relationship of those interested as next of kin; and
- (c) that notice has been given in accordance with Pa. O.C. Rule 3.5 to the personal representative; if no personal representative has been appointed, then to those interested as next of kin; if there are no next of kin, then to the Attorney General.

- (2) Exhibits. The following exhibits shall be attached to the petition:
- (a) if a ceremonial marriage occurred, a certified copy of the marriage certificate;
 - (b) if there were prior marriages by either spouse, a copy of the death certificate, if dissolved by death; or a certified copy of the decree of divorce by which such marriages were dissolved;
 - (c) a copy of the inventory and appraisement;
 - (d) a copy of any executed consent; and
 - (e) a verified return of notice.

Rule 5.3B. Appraisal. Notice. Confirmation.

(1) Filing of Appraisal. The appraisers shall, within thirty (30) days after their appointment, electronically file with the Clerk an appraisal of the property claimed.

(2) Notice of Appraisal. Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin; and, if there are neither personal representative, nor next of kin, then to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that confirmation of the appraisal and the setting apart of the real estate to the surviving spouse will be requested and may be allowed by the Court, of which not less than twenty (20) days notice is given therein, unless objections are filed. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court shall direct.

(3) Confirmation and Setting Apart of Allowance. In the absence of objection to the appraisal, at the expiration of the notice period under paragraph (2), and after the last appearance of the advertisement, if any, upon submission of proof of notice, the Court may enter a decree.

Rule 5.4A. Petition for Citation to Restrain the Payment or Transfer of Property Under 20 Pa.C.S. § 2211(d).

(1) Contents of Petition. The petition of an electing spouse shall set forth the following:

- (a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;
- (b) if an election has been filed, the date of the filing, and the date and method of notice to the decedent's personal representative of the filing;
- (c) an averment that the property whose transfer or payment the petitioner seeks to restrain is property which may be subject to election as set forth in 20 Pa.C.S. § 2203 and a detailed description of the property to the extent known by the petitioner, which shall include the following:

- (i)) the nature of the property and its approximate fair market value;
 - (ii) the names of all persons holding title to the property at the time of the decedent's death and at the time of presenting the petition;
 - (iii) identification of any fiduciary having an interest in the property; and
 - (iv) nature of the decedent's interest in the property and the date of any transfers of any interest held by the decedent in the property;
 - (d) an averment that failure to restrain the transfer or payment of the property may result in irreparable injury to the petitioner;
 - (e) any other information relevant to the disposition of the petition; and
 - (f)) a prayer for a citation, directed to all persons whom the petitioner alleges may transfer or make payments of the property described in paragraph (1)(c) hereof, to show cause why they should not be restrained from making payments or transfers of the aforesaid property.
- (2) Exhibits. The following shall be attached to the petition:
- (a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and
 - (b) consents to the relief requested signed by those interested parties who have consented thereto and who have not joined 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. O.C. Rule 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
 - (b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

Rule 5.4B. Petition to Extend the Time for a Surviving Spouse to file for an Elective Share in Accordance With 20 Pa.C.S. § 2210(b).

- (1) Contents of Petition. A petition by a surviving spouse shall set forth the following:
- (a) the same information which is required under paragraphs (1)(a) through (d) under Rule 5.16E;
 - (b) the fact(s) relied upon to justify an extension of time in which to file an election;
 - (c) any other information relevant to the disposition of the petition; and
 - (d) a prayer for the extension requested.

- (2) Exhibits. The following shall be attached to the petition:
- (a) a copy of the decedent's will, deed, trust agreement or other instrument of conveyance (if any) pertaining to the property which may be subject to the spouse's elective rights; and
 - (b) consents to the extension requested signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.
- (3) Notice. Any interested party who does not join in the petition or consent to the extension shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.
- (4) Decree. A proposed decree in approved form shall be attached to the face of the petition.

Rule 5.5A. Appointment of Guardian *ad litem* or Trustee *ad litem*. Report Requirements.

- (1) Time of Filing of Report. The guardian *ad litem* and/or trustee *ad litem* shall electronically file the report within 60 days after appointment by the Court unless the time for filing is otherwise shortened or extended by (a) the Court or (b) agreement of the parties.
- (2) Contents of Report. The report of the guardian *ad litem* and/or trustee *ad litem* shall contain the following:
- (a) a statement of when, how and why the guardian *ad litem* and/or trustee *ad litem* was appointed;
 - (b) the identity and interests of persons on whose behalf the guardian *ad litem* and/or trustee *ad litem* has been appointed;
 - (c) a review of the account, if applicable;
 - (d) a statement of the legal and other issues involved and the position of the guardian *ad litem* and/or trustee *ad litem* with respect thereto;
 - (e) such other information as the guardian *ad litem* and/or trustee *ad litem* deems relevant; and
 - (f)) the report may also contain a request by the guardian *ad litem* and/or trustee *ad litem* for compensation.

Rule 5.6A. Minor's Estate. Restricted Account.

- (1) Waiver of Security. In lieu of the entry of security, the Court, in the decree appointing the guardian, may authorize the guardian to deposit the funds of the minor in an interest-bearing account or certificate of deposit in a bank with an office located in Philadelphia County in an amount not to exceed the insured

amount; subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without order of Court. Proof of deposit evidencing the restriction shall be electronically filed with the Court within sixty (60) days.

(2) Limitation. An account or certificate of deposit under this Rule shall not exceed the amount which is fully insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

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

(4) A depository in which a guardian of the estate of a minor has deposited the funds in a restricted savings account or certificate of deposit pursuant to Court order is authorized to release sufficient funds therefrom to pay income taxes levied by the state or federal government upon said minor's estate upon the signature of the guardian without Court approval.

Rule 5.6B. Minor's Estate. When Guardian Unnecessary.

(1) Disposition. In General. If the value of the real and personal estate of a minor does not exceed the statutory limitation, the Court may:

- (a) authorize payment or delivery thereof to the minor, or the parent or other person maintaining the minor;
- (b) direct the deposit of the money in a restricted account, in the name of a natural guardian of the minor, or of the minor himself; or
- (c) make such provision for the retention or deposit of securities or other assets, as the Court shall deem for the best interests of the minor.

(2) Mortgage or Sale of Real Property. If the entire estate of a minor does not exceed the statutory limitation, the Court, upon petition, may authorize the parent or other person maintaining the minor to convey or mortgage any real property forming a part or all of such estate, without the appointment of a guardian or the entry of security. The petition shall conform to the requirements of the Rules governing the sale or mortgage of real property by a guardian. The order of the Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

Rule 5.6C. Minor's Estate. Allowances.

(1) In General.

(a) Responsibility of Guardian. Expenditures from income for the benefit of the minor should ordinarily be made by the guardian upon the guardian's own responsibility without application to the Court for approval.

(b) Petitions. Permissive. Mandatory.

(i)) Permissive. The guardian may petition the Court for approval of periodical payments from income needed for the maintenance, support or education of the minor, the minor's spouse or children.

(ii) Mandatory. No payments shall be made by the guardian, unless approval by the Court is first obtained, when payment is to be made from principal.

(2) Contents of Petition. Allowance for Maintenance, Support or Education. A petition for an allowance from a minor's estate, for the maintenance, support or education of the minor, the minor's spouse or children, shall set forth:

(a) the manner of the guardian's appointment and qualification, and the dates thereof; and the terms of the instrument creating the estate;

(b) the age and residence of the minor; whether the minor's parents are living; the name of the person with whom the minor resides; and, if married, the name and age of the minor's spouse and children;

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

(d) the circumstances of the minor, whether employed or attending school; if the minor's mother or father, or other person charged with the duty of supporting the minor, is living, the financial condition and income of such person and why such person is not discharging his or her duty to support the minor; and whether there is adequate provision for the support and education of the minor, or the minor's spouse and children;

(e) the date and amount of any previous allowance by the Court, and the name of the Judge who granted it;

(f)) the financial requirements of the minor and the minor's family unit, in detail, and the circumstances making such allowance necessary; and

(g) if the petition is presented by someone other than the guardian, that demand was made upon the guardian to act, and the reason, if any, given by the guardian for the guardian's failure to do so.

(3) Contents of Petition. Allowance of Counsel Fee. A petition for the allowance of counsel fee shall set forth the views of the guardian with respect to the reasonableness of the fee and contain sufficient facts to enable the Court to pass judgment on the matter. The following exhibits shall be attached to the petition:

(a) a statement of counsel setting forth in detail the nature and extent of the services performed;

- (b) the joinder of the minor's parents or surviving parent; or, if both parents are deceased; the joinder of the adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor, and in all cases of a married minor, of his or her spouse; and
- (c) the joinder of the minor, if over eighteen (18) years of age.

Rule 5.10A. Petitions for Leave to Sell Real Property at Public Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition.

(a) A petition by a personal representative shall set forth the following information:

- (i) the name, residence and date of death of the decedent; whether he died testate or intestate; and the date letters were granted to the petitioner;
- (ii) that the petitioner is not otherwise authorized by statute to sell; or is not authorized to do so by the will; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;
- (iii) the value of the property set forth in the inventory and the date it was filed;
- (iv) value at which the real property to be sold was included in the inventory;
- (v) if bond was entered, the name of the surety and the amount of such bond;
- (vi) names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale;
- (vii) the street address or other adequate description of the property to be sold, a brief description of the building erected upon the property, the current occupant of the property and the current tax assessment;
- (viii) of all liens of record known to the petitioner; and
- (ix) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(b) A petition by a trustee shall set forth the following information:

- (i) how title was acquired, stating the date and place of probate of the will or recording of the deed to the trustee;
- (ii) a recital of the relevant provisions of the will, deed or trust agreement pertaining to the real property to be sold and a recital of the history of the trust;
- (iii) whether the petitioner is not otherwise authorized to sell by statute or the will, deed, trust agreement or other relevant instrument; or

that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(iv) the approximate current value of property held in trust; and

(v) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(c) A petition by a guardian of a minor's estate shall set forth the following information:

(i) the circumstances of the petitioner's appointment;

(ii) the name, age and residence of the minor; the names of the minor's parents and whether either of them is deceased;

(iii) how title was acquired;

(iv) if an inventory was filed, the total value of the property set forth therein and the date it was filed, and the value at which the real property to be sold was included therein;

(v) the total approximate current value of property held by the petitioner;

(vi) of the provisions of the will, deed, trust agreement or other relevant instrument relating to the real property to be sold;

(vii) that the petitioner is not authorized to sell the real property; or that it is desirable that the sale have the effect of a judicial sale, stating the reasons;

(viii) nature and extent of the interest of the minor, of the petitioner and of third persons in the real property;

(ix) sufficient information to enable the Court to find that the proposed sale is in the best interest of the minor; and

(x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

(d) A petition by a guardian of an incapacitated person's estate shall set forth the following information:

(i) the date of the petitioner's appointment and the name of the Hearing Judge;

(ii) the domicile of the incapacitated person and the institution, if any, at which the incapacitated person is maintained;

(iii) how title was acquired;

(iv) the value of the property set forth in the inventory and the date it was filed;

(v) the value at which the real property to be sold was included in the inventory;

(vi) the approximate current value of property held by the petitioner;

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

(viii) sufficient information to enable the Court to find that the proposed sale is in the best interest of the incapacitated person;

- (ix) if the property to be sold is the incapacitated person's former residence, an averment that he is not likely to return to live in it; and
- (x) the same information as is required under subparagraphs (a)(v) through (ix) in a petition by a personal representative.

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

- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed; and
- (b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice which has been given to them.

(3) Notice of Petition for Public Sale. Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(4) Decree. A proposed decree providing that the real property be offered for public sale and that a return of sale be electronically filed with the Court shall be attached to the face of the petition.

(5) Notice of Public Sale. Notice and advertisement of the public sale of real property shall specify the time and place of the proposed sale, clearly identify the property by street address or other adequate description, and be given:

- (a) by advertisement in the legal publication, if any, designated by Rule of Court of that county for publication of notices, the publication to be made not less than twenty (20) days before the date of sale;
- (b) as ordered by the Court, by advertisement in a newspaper of general circulation in each county wherein any portion of the real estate is located;
- (c) by posting a notice at a conspicuous place on the premises; and
- (d) at least twenty (20) days prior to sale, by notice to each interested party by service on the attorney appearing of record for such party, or if there is no such attorney, by personal service or, if the party's residence is known, by delivery at such residence or by mail.

(6) Post-Sale Return of Notice. The petitioner shall electronically file with the Court an affidavit which shall set forth:

- (a) The price obtained;
- (b) The name and address of the purchaser and an averment that the purchaser was the highest bidder; and
- (c) Proof of notice given as required by Rule 5.10A(5), including dates of publication.

Rule 5.11A. Petitions for Leave to Sell or Exchange Real Property at Private Sale Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition. A petition under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10A with regard to a petition to sell real property at public sale and, in addition, it shall set forth the following information:

- (a) the name and address of the purchaser and a brief recital of the terms of sale; and
- (b) the estimated net proceeds which the petitioner will receive at the time of settlement.

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

- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;
- (b) consents to the sale signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them;
- (c) a copy of the agreement of sale;
- (d) a schedule setting forth the computation of the estimated net proceeds which the petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and
- (e) the affidavits of two real estate appraisers or brokers not of the same office, setting forth the information required under Pa. O.C. Rule 5.11(b).

(3) Notice. Any interested party who does not join in the petition or consent to the sale shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(4) Decree. A proposed decree approving the sale and, where appropriate, fixing the amount of security to be entered by the petitioner shall be attached to the face of the petition.

Rule 5.12A. Petition for Leave to Mortgage or Lease Real Property Under 20 Pa.C.S. §§ 3353, 5155, 5521(b) and 7780.6(a).

(1) Contents of Petition. A petition by a fiduciary under this Rule shall set forth, as nearly as may be practicable, the same information as is required under Rule 5.10.A with regard to a petition to sell real property at public sale by the same fiduciary; and, in addition, it shall set forth the name of the proposed mortgagee or lessee, the amount and terms of the proposed mortgage loan or lease and sufficient facts to enable the Court to determine whether the proposed mortgage or lease should be approved.

- (2) Exhibits. The following exhibits shall be attached to the petition:
- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the petitioner was appointed;
 - (b) consents to the mortgage or lease signed by those interested parties who do not join in the petition, and the names of those parties who do not consent and a copy of the notice given to them; and
 - (c) a statement by the proposed mortgagor agreeing to grant the mortgage loan.
- (3) Notice. Any interested party who does not join in the petition or consent to the mortgage or lease shall receive notice of the filing of the petition in accordance with Pa. O.C. Rule 3.5.
- (4) Decree. A decree in approved form shall be attached to the face of the petition approving the mortgage or lease and, where appropriate, fixing the amount of security to be entered by the petitioner.

Rule 5.13A. Public Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.

- (1) Contents of Petition.
- (a) Trustee. A petition to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq. shall also set forth in separate paragraphs:
- (i) how title was acquired, stating the date and place of probate of the will or recording of the deed;
 - (ii) a full description of the real property, its improvements, by whom it is occupied, its rental value, the current tax assessment, and the liens and charges to which it is subject;
 - (iii) interest of the petitioner, if a fiduciary, how and when such fiduciary was appointed; if other than a fiduciary, the name of the fiduciary, if any, and how and when such fiduciary was appointed;
 - (iv) of the history of the trust, and of the relevant provisions of the will or deed pertaining to the real property to be sold; the names of all parties and the nature and extent of their interests, stating which, if any, are minors or incapacitated persons, and giving the names and record of appointment of their guardians, if any; and the names of the next of kin and the age of any minors;
 - (v) the limitations or defeasibility from which title is to be freed, following as closely as possible the language of 20 Pa.C.S. § 8301; and that the purpose of the proceeding is to obtain a decree stating that the title transferred to the purchaser shall be indefeasible by any person ascertained or unascertained, or by any class of persons mentioned in the petition or decree having a present or expectant interest in the premises, and unprejudiced by any error in the proceedings of the Court;

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

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

(b) Guardian. A petition by a guardian to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

(i)) that the petitioner was appointed guardian of the estate of the minor, stating the method, date and record of appointment; or, if the estate of the minor consists of an interest in real property of a value not exceeding the statutory limitation provided in 20 Pa.C.S. §§ 5101 and 5102, that the petitioner is the natural guardian, or the person by whom the minor is maintained, stating the relationship of the petitioner to the minor;

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

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

(iv) age of the minor; the names of his or her next of kin; and the notice given them of the filing of this petition; and

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

(2) Exhibits. The following exhibits shall be attached to a petition by a fiduciary to sell real property at public sale, under 20 Pa.C.S. § 8301 et seq.:

(a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed; and

(b) consents to the sale signed by those interested parties who consent thereto, and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) Notice. Security. The practice and procedure with respect to the entry of security and notice shall conform to the appropriate provisions of Rule 5.10A(1)(a)(v) and Rule 5.10A(5).

Rule 5.13B. Private Sale of Inalienable Property Under 20 Pa.C.S. § 8301 et seq.

(1) Contents of Petition.

(a) Trustee. A petition by a trustee to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

- (i)) the information required under Rule 5.13A(1);
- (ii) the name and address of the proposed purchaser, the price to be paid; the terms of the proposed sale; and that the price offered is better than can be obtained at a public sale; and
- (iii) when the proposed sale is of an undivided interest, that the other interested parties desire the sale to be made and are willing to join in the deed.

(b) Guardian. A petition by a guardian to sell real property at private sale, under 20 Pa.C.S. § 8301 et seq., shall also set forth in separate paragraphs:

- (i)) the information required under Rule 5.13A(2); and
- (ii) the name and address of the proposed purchaser, the price to be paid, the terms of the proposed sale, and that the price offered is better than can be obtained at a public sale.

(2) Exhibits. The following exhibits shall be attached to a petition by a fiduciary to sell real property at private sale under 20 Pa.C.S. § 8301 et seq.:

- (a) a copy of the will, deed, trust agreement, decree or other relevant instrument by which the fiduciary was appointed;
- (b) a copy of the agreement of sale;
- (c) affidavits by two real estate appraisers setting forth the information required by Pa. O.C. Rule 5.10(b); and
- (d) consents to the sale signed by those interested parties who consent thereto and the notice which has been given to those parties who do not consent, or voluntarily appear as petitioners or respondents; if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304.

(3) Notice. Security. The Court, in the decree approving or confirming the sale, will fix the amount of security which the fiduciary shall be required to enter. The practice and procedure with respect to notice shall conform to the appropriate provisions of Rule 5.11A.

Rule 5.13C. Mortgage of Inalienable Property under 20 Pa.C.S. § 8301.

(1) Contents of Petition. A petition by a fiduciary to mortgage real property, under 20 Pa.C.S. § 8301 et seq., shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale by the same fiduciary; shall set forth the amount and terms of the proposed loan; and shall set forth sufficient facts to enable the Court to determine whether the proposed loan should be approved.

(2) Exhibits. Security. The exhibits required by Rule 5.12A(2) shall be attached to the petition, with the proviso regarding consents, that if all parties having an interest do not voluntarily appear as petitioners or respondents, a citation will be granted, directed to all parties who have not appeared, as provided by 20 Pa.C.S. § 8304. Security shall be fixed as provided by Rule 5.12A(4).

Rule 5.13D. Real Estate or Fiduciaries in Other Counties of Inalienable Property. 20 Pa.C.S. § 8301.

(1) Fiduciaries whose appointments originated in this county shall obtain leave of this Court to petition the Court of another county of this Commonwealth, under 20 Pa.C.S. § 8301 et seq., to sell or mortgage real property located in that county. Such leave may be obtained by petition to this Court setting forth briefly the substantial averments of a petition for the sale or mortgage of real property.

(2) Fiduciaries whose appointments originated in other counties of this Commonwealth shall obtain leave of the Court of their appointment to petition this Court under 20 Pa.C.S. § 8301 et seq. to sell or mortgage real property located in this county. The petition to this Court shall comply with the provisions of these Rules with regard to the sale or mortgage of real property, and shall include, as exhibits, copies of the petition and of the decree of the Court of origin.

Rule 5.16A. Settlement of Small Estates under 20 Pa.C.S. § 3102.

This rule has been replaced by Phila. O.C. Rule 5.50A.

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, and 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 Attorney General, 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, 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.

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Rule 5.16C. Petitions to Fix or Waive Additional Security under 20 Pa.C.S. §§ 3351 and 7780.6(a).

(1) Contents of Petition.

(a) In a sale, whether public or private, of real property without benefit of an order of Court directing or authorizing such sale, where a personal

representative or trustee was required to give a bond, a petition by a personal representative or trustee shall set forth the following information:

- (i)) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; and the date letters were granted to the petitioner;
- (ii) the total value of all assets set forth in the inventory;
- (iii) value at which the real property to be sold was included in the inventory;
- (iv) if bond was entered, the name of the surety and the amount of such bond;
- (v) the street address or other adequate description of the property to be sold; a brief description of the building erected on the property; the current occupant of the property; and the current tax assessment;
- (vi) name and address of the purchaser and a brief recital of the terms of the sale;
- (vii) the estimated net proceeds which petitioner will receive at the time of settlement;
- (viii) of all liens of record known to petitioner;
- (ix) names and relationships of all interested parties; whether or not they are sui juris, and, if not, the names of their fiduciaries and a statement of how they were appointed; and whether or not they join in the petition or consent to the sale; and
- (x) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(b) A petition by a trustee shall set forth the following information:

- (i)) how title was acquired;
- (ii) a recital of the relevant provisions of the will, trust agreement, deed or other relevant instrument pertaining to the real property to be sold;
- (iii) estimated value of all assets currently held in trust; and
- (iv) same information required under paragraph (a)(iv) through
- (x) in a petition by a personal representative.

(2) Notice. Any interested party who does not join in the petition or consent to the sale shall receive notice of the terms of sale and of the filing of the petition in accordance with Pa. O.C. Rule 3.5.

(3) Exhibits. Attached to the petition shall be the following:

- (a) a copy of the will, trust agreement, deed, or other relevant instrument;
- (b) a copy of the agreement of sale;
- (c) a schedule setting forth the computation of the estimated net proceeds which petitioner will receive at the time of settlement, including an itemized list of estimated closing expenses; and

(d) consents to the sale signed by those interested parties who do not join in the petition, and the names and addresses of those parties who do not consent and a copy of the notice which has been given to them.

(4) Appraisals. No appraisal shall be required where counsel for petitioner certifies that:

(a) in counsel's opinion the estate is solvent; and

(b) counsel knows of no objection to the sale by an interested party. In the absence of such certification, an appraisal by a qualified appraiser shall be presented with the petition. The Court may order the appointment of an appraiser in any case where it deems it appropriate or necessary for the disposition of the petition.

(5) Decree. A proposed decree shall be attached to the face of the petition. In the decree the Court shall fix the amount of security which the petitioner shall be required to enter, or excuse the petitioner from entering additional security. The corporate surety shall be the same as on the original bond, unless the Court directs otherwise.

(6) Specific Petitions.

(a) Petition by a Personal Representative or a Trustee: When a personal representative or trustee is required to petition the Court to have additional security fixed or waived under Rule 5.16C, the sale must meet with Court approval; otherwise personal representatives and trustees have statutory authority to sell real property without Court approval unless a specific devisee of the real property refused to join in the sale, the personal representative or trustee wishes to bid on the property, or the governing instrument denies the power to sell. See 20 Pa.C.S. §§ 3351, 3353, 3356 and 7780.6(a).

(b) Petition by a Guardian of a Minor's Estate: A guardian of a minor's estate may be appointed by order of Court, by will in accordance with 20 Pa.C.S. § 2519(b), or by instrument of conveyance in accordance with 20 Pa.C.S. § 5115. A Court appointed guardian does not have the power to sell real property without Court approval. See 20 Pa.C.S. § 5155. A will or instrument of conveyance appointing a guardian may give the guardian power to sell without Court approval. See 20 Pa.C.S. § 5146(a).

(c) Petition by a Guardian of an Incapacitated Person's Estate: A guardian of an incapacitated person's estate does not have the power to sell real estate without Court approval.

(d) With respect to petitions to sell real property under the Inalienable Property Act, See 20 Pa.C.S. § 8301 et seq. See Rules 5.13A to 5.13D.

(e) The procedure and the information required for a petition for the private sale of real property to pay debts of a decedent shall conform, as nearly as practicable, to the procedure and information required of a petition presented under Rule 5.11A.

Rule 5.16D. Approval of Corporate Fiduciaries. Security.

(1) In General. 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 copy (either the original or photocopy) of the certificate evidencing the approval 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 running from January 1 to December 31. In order for approval to be granted or renewed in a timely fashion, an institution must file this 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, a bond will not be required of an approved corporate fiduciary.

Rule 5.16E. Petition to Enforce the Rights of an Electing Spouse under 20 Pa.C.S. § 2201 et seq.

(1) Contents of Petition. The petition by an electing spouse shall set forth the following:

- (a) the name, date of death and residence of the decedent;
- (b) the name and address of the petitioner, and the petitioner's residence on the date of the decedent's death;
- (c) an averment that the petitioner is the surviving spouse of the decedent; the date and place of the ceremonial marriage, and the name and the official capacity of the person who performed the ceremony; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;
- (d) whether the decedent died testate or intestate; if letters were granted, where, to whom and when they were granted;
- (e) the approximate value of all assets which may be subject to the spouse's election, to the extent known by petitioner;
- (f)) the date of the filing of the election, and the date and method of notice to the decedent's personal representative of the filing;
- (g)) a description of the party or parties against whom relief is sought, including whether each party is a fiduciary, custodian or

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obligor, and

whether each is the original beneficial recipient or a successive donee to the property or its proceeds;

(h) a description of the relief sought, describing the specific acts to be performed or the extent of the personal liability to be imposed;

(i)) any other information relevant to the disposition of the petition; and

(j)) a prayer for a citation to show cause why the relief sought should not be granted, or if no citation is required, a prayer for the relief requested.

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

(a) a copy of the decedent's will, trust agreement, deed or other relevant instrument of conveyance (if any) pertaining to the property with respect to which relief is requested; and

(b) consents to the relief requested signed by those interested parties who have consented thereto and who have not jointed in the petition.

(3) Service of Citation and Notice.

(a) Petitions Requiring the Issuance of a Citation.

(i)) In accordance with Pa. O.C. Rule 3.5(a), service of the citation shall be made on all parties to whom the citation is directed, and the original citation with proof of service endorsed or annexed thereon shall be filed with the Clerk.

(ii) Petitioner shall give written notice to all other interested parties who have neither joined in the petition nor consented to the requested relief by letter and copy of citation mailed to all such parties at least twenty (20) days prior to the return date of the citation.

(iii) Counsel to petitioner shall electronically file with the Clerk, prior to the return date of the citation, a certification of mailing which shall list the names and addresses of all parties to whom notice was so given, including a copy of the notice given.

(b) Notice in the Case of Petitions Not Requiring the Issuance of a Citation. In accordance with Pa. O.C. Rule 3.5(b), petitioner shall give written notice of the filing of the petition to the Court and shall attach to the petition a certification in the form required by Pa. O.C. Rule 3.5(a),(b).

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

(a) In the case of petition requiring the issuance of a citation, a preliminary decree in approved form awarding a citation as requested in the petition; and

(b) A final decree in approved form providing for the relief requested. In appropriate cases, the decree will fix the amount of security, if any, to be entered.

Rule 5.16F. Fiduciaries in Military Service. Appointment of Substituted Fiduciary Pro Tem under 20 Pa.C.S. § 4301.

- (1) Contents of Petition. A petition under 20 Pa.C.S. § 4301 shall set forth:
 - (a) the facts necessary to confer jurisdiction upon the Court;
 - (b) the estimated value of the estate;
 - (c) the names of all interested parties, the nature and extent of their interest, stating who are minors or incapacitated persons, whether or not they are sui juris, and, if not, the names of their fiduciaries (if any) and a statement of how they were appointed; and whether or not they join in the petition or consent;
 - (d) that notice in accordance with Pa. O.C. Rule 3.5 has been given to all interested parties;
 - (e) the name and address of the person proposed as a substituted fiduciary pro tem, if such an appointment is requested; the nature and relationship of such person to the estate or to the parties; and
 - (f)) such other facts as may be necessary to enable the Court to pass judgment on the matter.
- (2) Exhibits. A copy of the will, deed, trust agreement or other relevant instrument, the consent of the co-trustees and a verified return of notice shall be attached to the petition.

Rule 5.50A. Settlement of Small Estates by Petition

- (1) In addition to the requirements set forth under Pa.R.O.C.P. 5.50(b), a petition for the settlement of a small estate filed pursuant to 20 Pa.C.S. § 3102 shall also set forth:
 - (a) If Letters of Administration or Letters Testamentary were granted, where, to whom, and when they were granted, and the amount of bond, if any, given by the personal representative;
 - (b) A prayer for the discharge of the personal representative and the release of any bond or surety given.
- (2) In addition to the exhibits required under Pa.R.O.C.P. 5.50(c), the following exhibits shall also be attached to the petition:
 - (a) A copy of the Letters of Administration or Letters Testamentary, if any, that were granted; and
 - (b) A proposed decree setting forth a list of all disbursements and distributions of the assets of the estate and, inappropriate cases, for the

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discharge of the personal representative and the release of any bond or surety.

(3) No appraisal of the decedent's personal property is required, unless ordered by the Court.

Probate Section Comment: This rule replaces Phila.O.C. Rule 5.16A.

CHAPTER VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE

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.

Rule 7.1B. Pre-Trial Conference.

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

- (a) The identification of the issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; and
- (d) Such other matters as may aid in the disposition of the action.

(2) The Court may make an order reciting the action taken at the conference, identifying the issues for trial, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered.

Rule 7.2A. Motion for Judgment on the Pleadings.

After the relevant pleadings are closed, but within such time as to not unreasonably delay the trial, any party may file a motion on the pleadings as follows:

(1) The moving party shall file a motion attaching thereto a copy of all pleadings which must be considered by the Court and a brief or memorandum of law, which shall be served on all other parties as required by Pa. O.C. Rule 4.3;

(2) The non-moving parties shall file a response within twenty (20) days of the service of the motion, may attach any document, pleading or item not attached by the moving party, and shall include a brief or memorandum of law;

(3) Any interested party may request oral argument. The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

Rule 7.3A. Motion for Summary Judgment.

(1) General Rules. After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, and in accord with any case specific case management Order, any party may file a motion for summary judgment, as provided in Pa.R.C.P. No. 1035.1 et seq., and this Rule.

(2) Content of the Motion for Summary Judgment. The moving party shall provide the bases for the entry of summary judgment in a motion divided into consecutively numbered paragraphs. Each paragraph shall contain as far as practicable only one material allegation. The moving party must reference in each allegation the “record” (as that term is defined in Pa.R.C.P. No. 1035.1) which the moving party wants the Court to consider, and shall attach a copy of that record as an exhibit. The moving party shall include with the motion a brief or memorandum of law. The brief or memorandum of law shall provide the Court with the legal bases for summary judgment in light of the allegations made in the motion, and shall not reference any fact or pleading not raised in the motion. Any fact or allegation mentioned in the brief or memorandum of law which is not listed in the summary judgment motion will not be considered by the Court.

(3) Service of Summary Judgment Motion. The summary judgment motion, exhibits and brief or memorandum of law must be served on the party or parties against whom summary judgment is requested, as provided in Pa. O.C. Rule 4.3.

(4) Response to Motion for Summary Judgment. The adverse party or parties must electronically file a response to the motion for summary judgment within thirty (30) days of service of the motion, as provided in Pa.R.C.P. No. 1035.3. The response to the motion shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion for summary judgment. The response shall state whether each allegation is admitted or denied. No general denial is acceptable. The factual reasons for the denial or dispute must be specifically stated and the “record,” (as that term is defined in Pa.R.C.P. No. 1035.1) supporting the denial or disputed must be attached as an exhibit. A response may also include additional allegations demonstrating any genuine issue of material fact, in which event the responding party must reference and attach a copy of the “record,” (as that term is defined in Pa.R.C.P. No. 1035.1) which demonstrates the existence of a genuine issue of material fact.

(5) Any interested party may request oral argument. The Court may require oral argument, whether or not requested by a party. The Court may dispose of any motion without oral argument.

CHAPTER IX. AUDITORS AND MASTERS

Rule 9.1A. Appointment.

(1) Auditor to Examine and Audit Account. An auditor to examine and audit an account may be appointed by the Court when all interested parties, or their counsel, consent thereto in writing.

(2) Auditor to State Account. An auditor to state an account may be appointed by the Court when a proper account cannot be obtained from a fiduciary. Such appointment may be made sua sponte or upon petition of any interested party. The auditor may be required to electronically file the account and to participate in such further proceedings as the Court may direct.

(3) Master. Amicus Curiae. A master or an amicus curiae with the powers of a master may be appointed by the Court, sua sponte or upon petition of any interested party.

Rule 9.1B. Manner of Notice and to Whom Given.

(1) The Court appointed auditor, master, or amicus curiae shall give written notice of such appointment and of the time and place of such appointee's first hearing to all persons who have appeared of record, and to such other persons and in such manner as the Court may direct.

(2) Notice of succeeding hearings given by the auditor, master or amicus curiae shall be given in accordance with Rule 9.1B(1).

Rule 9.2A. Where Filed.

Reports of auditor, master, and amicus curiae shall be filed with the Clerk.

Rule 9.6A. Time and Contents of Notice.

Auditors, masters and amicus curiae with the powers of a master shall give thirty (30) days notice prior to the filing of the report to all interested parties or their counsel with the same information as required in the notice for filing an account, as provided in Pa. O.C. Rule 2.5. A copy of the report shall also be provided at the time notice is given.

Rule 9.7A. Confirmation of Report. Objections.

(1) Objections to Report. Within twenty (20) days of receiving notice of the filing of the report, any interested party may file with the auditor written objections to the report. In such event, the auditor shall have ten (10) days to supplement the report by a full consideration of the objections seriatim, setting forth concisely all reasons for recommending that the Court sustain or dismiss each objection. The auditor shall then file the report with the Clerk, which will then be submitted to the Appointing Judge, together with a copy of the objections and the supplemental report, giving the interested parties or their counsel concurrent notice of such filing and a copy of the supplemental report. The Appointing Judge shall make such disposition thereof as the Court deems proper.

(2) Objections to Auditor Stated Account. Objections to the report of an auditor who states an account shall be asserted as objections to the auditor's account, and shall be in the form provided in Pa. O.C. Rule 2.7.

Rule 9.8A. Security for Expenses and Fees.

The Court may require that security be posted for the compensation and expenses of the auditor, master, or amicus curiae.

CHAPTER X. REGISTER OF WILLS

Rule 10.1A. Register of Wills - Forms Required to be Used.

The following forms, approved by the Supreme Court, are required pursuant to Pa. O.C. Rule 10.1, to be used in proceeding before the Register of Wills:

- (1) Estate Information Sheet (RW-01)
- (2) Petition for Grant of Letters (RW-02)
- (3) Oath of Subscribing Witness(es) (RW-03)
- (4) Oath of Non-Subscribing Witness(es) (RW-04)
- (5) Oath of Witness(es) to Will Executed by Mark (RW-05)
- (6) Renunciation (RW-06)
- (7) Notice of Estate Administration Pursuant to Pa. O.C. Rule 10.5 (RW-07)
- (8) Certification of Notice Under Pa. O.C. Rule 10.5 (RW-08)
- (9) Inventory (RW-09)
- (10) Pa. O.C. Rule 10.6 Status Report (RW-10)

The following form may be used where applicable:

- (1) Affidavit for Filing in Philadelphia County by Foreign Fiduciary.

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

The Local Rules in this Chapter were adopted on May 1, 2019, effective June 1, 2019.

Rule 14.1A. Guardianship Petition Practice and Pleading. Special Petitions.

(1) Small Estate of Incapacitated Persons. If at a hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation, the Court may award the entire estate to the person or institution maintaining the incapacitated person, or make such order as may be appropriate under the circumstances. In such case, a decree in approved form, in lieu of the final decree appointing a guardian, shall be attached to the face of the petition.

Probate Section Comment: 20 Pa.C.S. § 5101 and § 5505 prescribe the statutory limitation for small estates.

(2) Petition for Allowances. Expenditures for the maintenance or support of an incapacitated person or for a dependent of the incapacitated person, or for payment of counsel fees, shall be governed by the appropriate provisions of Phila. O.C. Rule 5.6C(1) and (3) and as provided below.

(a) Filing of Petition and Decrees. A petition for allowance from the incapacitated person's estate, during incapacity, shall be filed, in accordance with Pa. O.C. Rule 4.7 and Phila. O.C. Rule 4.7A, with the Clerk by the guardian or any interested party. A proposed final decree shall be attached to the face of the petition. When the petitioner is not a guardian, a preliminary decree containing a provision for the time and place for hearing to be fixed by the Court shall also be attached to the face of the petition. Notice shall be given to the guardian, to all interested parties, and to such other persons as the Court may direct.

(b) Contents of Petition. The petition shall include:

- (i) the information listed in Pa. O.C. Rule 14.2(a)(1) through (5);
- (ii) the name(s) of the guardian(s), the date of his or her or appointment, the nature of the guardianship of the estate or person (limited or plenary) and the name of the Hearing Judge;
- (iii) the names and addresses of all interested parties;
- (iv) if the petitioner is not a guardian, his or her relationship to the incapacitated person, and, if not related, the nature of his or her interest;
- (v) a statement of all previous distributions allowed by the Court since the date of the last Court approved accounting, if any;
- (vi) an itemized statement of all claims of the incapacitated person's creditors known to petitioner;

- (vii) a statement of the requested distribution and the reasons therefor;
and
- (viii) a prayer for the distribution requested. If the allowance requested will involve a matter which will require annual petitions for substantially similar relief, the petitioner may request the Court to make the grant of the allowance applicable to more than one (1) year, but not to exceed three (3) years, unless otherwise permitted by the Court.

(c) Restrictions Governing Allowance:

- (i) Except in cases of extreme emergency, requests for allowances will not be approved prior to the filing of the inventory or the last required annual report, as the case may be.
- (ii) Requests for allowances for fees of Court-appointed Counsel will not be approved prior to the filing of the Guardian Inventory. Whenever possible, reasonable counsel fees shall be ordered to be paid from the estate of the incapacitated person. If the incapacitated person is unable to pay for counsel, the Court may order counsel fees and costs to be paid by the county. See 20 Pa.C.S. § 5511(c).
- (iii) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, or any agency of the Commonwealth, notice of the request for allowance shall be given to such agency.

(3) Other Petitions. Any other petitions for relief may be filed consistent with the applicable statutes and rules. See 20 Pa.C.S. § 5501 *et seq.*, Pa. O.C. Rule 14.1(c).

Rule 14.2A. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person

(1) Petition Contents. When the petitioner avers, as required by Pa. O.C. Rule 14.2 (a) (6), (7) and (8), the existence of an executed health care power of attorney or advance health care directive, or an executed power of attorney, or any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54, 56 or 58, the petition shall state the position of the Petitioner as to the continuation of the duties of the agent identified under such document(s).

(2) Exhibits.

(a) A Preliminary Decree and a Final Decree, as set forth in the Appendix maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the face of a petition for adjudication of incapacity.

(b) Consent of Proposed Guardian. The signed written consent of the proposed guardian to act as guardian, as set forth in the Appendix maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the petition.

(3) Emergency Guardians.

(a) Appointment. The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

(b) Applicability of Other Provisions. The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

(c) Duration of Emergency Guardianship.

- (i) **Person.** An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order, upon application to the Court.
- (ii) **Estate.** The duration of an emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days.
- (iii) If continuing guardianship of person or estate is necessary, a full guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511 during or after the expiration of the period of the emergency order or any extension.
- (iv) The use of an expert report or deposition testimony in lieu of live in-person testimony in emergency guardianship proceedings must be specifically authorized by the court. The use of telephonic live testimony is left to the discretion of the court.

(4) Citation with Notice.

(a) Issuance of Citation. Upon the issuance of a citation following the granting of a preliminary decree to a petition for adjudication of incapacity, Petitioner or their designee shall pick up the original citation from the Clerk in person, or contact the Clerk to request another arrangement. Such requests may or may not be honored, at the discretion of the Clerk.

(b) Service. If there are no known intestate heirs, notice shall also be given to the Attorney General at the Eastern Regional Office in Philadelphia.

(c) Alias Citation. If the original citation was not personally served on the alleged incapacitated person at least twenty (20) days prior to the scheduled hearing date, the Court upon request may issue an alias citation. The Alias Citation must be served on the alleged incapacitated person at least twenty (20) days prior to the newly scheduled hearing date, in the same manner as the original citation.

Note: An Alias Citation is not required if the original citation has been timely served on the alleged incapacitated person and a continuance is requested from the originally scheduled hearing date.

Probate Section Comment: 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. A shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian.

14.6A. Determination of Incapacity and Selection of Guardian. Hearing Date.

(1) Proof of Service. On the date of the hearing for determination of incapacity, the following shall be submitted:

(a) an affidavit of service of the petition and citation on the alleged incapacitated person, attached to or endorsed upon the original citation, reciting that the petition and citation were explained to the maximum extent possible in language likely to be understood by the alleged incapacitated person and that a copy of each was left with him or her; and

(b) an affidavit reciting the manner of giving notice of the hearing and identifying those persons to whom such notice was given as required in Pa. O.C. Rule 14.2(f)(2).

(2) Attendance at Hearing. The petitioner and the alleged incapacitated person shall be present at the hearing unless the Court is satisfied, upon the deposition or *notarized expert report or* testimony of or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his or her presence.

(3) Independent Evaluation: If, pursuant to 20 Pa.C.S. § 5511(d), the Hearing Judge deems it necessary upon his or her own motion or on petition by the alleged incapacitated person for cause shown, he or she shall order an independent evaluation to meet the requirements of 20 Pa.C.S. §5518, and determine the appropriate charges and the persons responsible for payment.

(4) Testamentary Writings. A copy of all testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, certified to be true and correct, shall be submitted by the guardian or such other person to the Hearing Judge for inspection within thirty (30) days of such guardian's appointment, or within thirty (30) days when such testamentary writing(s) is subsequently discovered.

Rule 14.8A. Guardianship Reporting, Monitoring, Review, and Compliance

- (1) Guardian shall file all inventories, annual reports, and final reports in accordance with 20 Pa. C.S. §5521(c), Pa. O.C. Rule 14.8, and Pa.R.J.A. No. 510(b). Reports and inventories may be filed in either an electronic format or a physical paper format. Reports and inventories filed in an electronic format shall use the Guardianship Tracking System.
See <https://ujportal.pacourts.us/Guardianship.aspx>.

Probate Section Comment: The Clerk will provide a computer terminal in the Clerk's office and will assist those Guardians without a computer or internet access to file these legal papers through the Guardianship Tracking System.

- (2) The Guardianship Tracking System is designated by the Court to provide the notices to the Guardian required by Pa. O.C. Rule 14.8(f).

APPENDIX

The Forms below were adopted or amended on May 1, 2019, effective June 1, 2019.

PHILADELPHIA COUNTY ORPHANS' COURT FORMS

General Orphans' Court Forms:

- *Certificate of Compliance
- *Orphans' Court Subpoena
- Orphans' Court Cover Sheet
- *Entry of Appearance

***Decedent's Estate Proceeding Forms:**

- Account Filing Checklist – Decedent's Estate
- Appeal from Register of Wills
- Excerpt from Schedule of Distribution

Incapacitated Person's Proceeding Forms:

- Account Filing Checklist – Guardian of Incapacitated Person
- Consent of Guardian
- Final Decree
- Guardian Address Confirmation Form
- Preliminary Decree

***Minor's Proceedings Forms:**

- Account Filing Checklist - Guardian of Minor

***Minor's and Incapacitated Person's Compromises Forms:**

- Minors and Incapacitated Persons Checklist
- Affidavit of Compliance
- Petition to Settle Minor's Compromise

***Power of Attorney Proceedings Forms:**

- Account Filing Checklist – Agent under Power of Attorney

***Trust Proceeding Forms:**

- Account Filing Checklist – Special Needs Trust
- Account Filing Checklist – Trust (Testamentary/*Inter Vivos*)

***Wrongful Death and Survival Proceeding Forms:**

- Wrongful Death and Survival Actions Checklist
- Affidavit of Compliance
- Petition to Settle Wrongful Death and Survival Actions

***Register of Wills Forms:**

- Affidavit for Filing in Philadelphia County by Foreign Fiduciary

****The above-listed Forms are available on the Website of the
First Judicial District of Pennsylvania at: www.philacourts.us/forms***

Orphans' Court Cover Sheet

Court of Common Pleas of Philadelphia County Orphans' Court Division Cover Sheet		FOR COURT USE ONLY	
		ASSIGNED TO JUDGE	
		CONTROL NO.	
		<i>Responding parties must include this number on all filings.</i>	
NAME OF ESTATE		ORPHANS' COURT NUMBER	
TYPE OF ESTATE <input type="checkbox"/> Decedent's Estate <input type="checkbox"/> Trust Inter Vivos <input type="checkbox"/> Testamentary Trust <input type="checkbox"/> Incapacitated Person <input type="checkbox"/> Minor <input type="checkbox"/> Principal (power of attorney) <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Special Needs Trust <input type="checkbox"/> Other (specify) _____			
FILING PARTY'S RELATIONSHIP TO ESTATE			
PLEADING OR DOCUMENT FILED			
NAME OF FILING PARTY (NOT COUNSEL FOR THE PARTY)		ADDRESS	
ATTORNEYS MUST CHECK ONE BOX TO THE CLERK OF ORPHANS' COURT: <input type="checkbox"/> Kindly enter my appearance on behalf of _____ <input type="checkbox"/> I have entered my appearance on behalf of _____			
NAME OF FILING ATTORNEY OR PARTY		ADDRESS	
PHONE NUMBER	FAX NUMBER		
SUPREME COURT IDENTIFICATION NO.		E-MAIL ADDRESS	
SIGNATURE OF FILING ATTORNEY OR PARTY		DATE	
OTHER PARTIES (Name, address, and telephone number of unrepresented parties or all counsel already of record. If needed, use separate sheet.)			
Is notice required? <input type="checkbox"/> No <input type="checkbox"/> Yes. Copy of notice attached to pleading. Date of Notice: _____ <input type="checkbox"/> Yes. All joinders are attached.		If Citation is requested: 1. Was Citation against Respondent previously issued? <input type="checkbox"/> Yes <input type="checkbox"/> No 2. If yes, date of service: _____	
Has another petition been decided in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No Is another petition pending? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the Judge: _____			
FOR COURT USE ONLY - FIRST FILINGS ONLY (If Applicable)			
DATE OF BIRTH	DATE OF DEATH	REGISTER OF WILLS NUMBER	DATE OF DEED OF TRUST
The Filing Party shall complete the information at the bottom of the Cover Sheet filed with the Clerk, and not the service copies. The information will only be used by the Clerk. The Clerk shall not release this information to the general public.			

Account Filing Checklist - Guardian of Incapacitated Person

COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION		
ACCOUNT FILING CHECKLIST • GUARDIAN OF INCAPACITATED PERSON		
ESTATE OF _____, INCAP	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
INSTRUCTIONS: Persons wishing to file an account must first complete this form, indicating in "preparer" column (YES or N/A) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in BOLD . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) Account Cover Page and Summary Page [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) Account Signed by All Accountants and Verified by at Least One Accountant [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel [Pa. O.C. Rule 2.4(e)]	
	4) Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	5) Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant [Pa. O.C. Rule 2.4(d)]	
	6) Copy of Decree or Instrument Appointing Guardian [Phila. O.C. Rule 2.4B(6)(a)]	
	7) If Deceased, Statement of Appointment of Personal Representative [Phila. O.C. Rule 2.4B(6)(b)]	
	8) Statement of Method of Notice and Copy of Notice [Pa. O.C. Rule 2.5]	
	9) Agreement of Compromise and Settlement [Phila. O.C. Rule 2.4B(1)(c)]	
	10) Agreement Regarding Accountant's Compensation [Phila. O.C. Rule 2.4B(1)(d)]	
	11) Certificate of Appointment of Foreign Fiduciary [Phila. O.C. Rule 2.4B(3)(a)]	
	12) Affidavit by Foreign Fiduciary [Phila. O.C. Rule 2.4B(3)(b)]	
	13) Income Accounting Waivers [Phila. O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> ACCEPTED <input type="checkbox"/> REJECTED	REVIEWED BY _____	DATE _____

10-132D (7-20-16)

Consent of Guardian Form

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of _____
O.C. # _____ Control # _____

CONSENT OF GUARDIAN

I, _____ accept and confirm my appointment as Guardian of the Person / Estate (circle all that apply) of _____ ("Ward").

I understand that as Guardian:

1. I must always act in the best interests of my Ward;
2. I have a fiduciary responsibility to my Ward and the Court;
3. I must act with reasonable prudence in all matters relating to the Estate;
4. I must not engage in self-dealing;
5. I am forbidden from expending principal of the Estate without prior Court authorization;
6. I am forbidden from selling any real property owned by my Ward without prior Court authorization;
7. I must file a Guardian's Inventory within ninety (90) days of my appointment as Guardian of the Estate;
8. I must file an annual report as Guardian of the Person and an annual report as Guardian of the Estate every year on the anniversary date of my appointment as Guardian;
9. I understand the duties and responsibilities of being a Guardian, and have the knowledge, skills and expertise to be a Guardian; and
10. I understand and agree that as a Guardian, I must act in accordance with the laws governing guardians found in the statutes set forth in 20 Pa.C.S. §5501, et seq., and the Pennsylvania and Philadelphia Orphans' Court Rules concerning guardianships set forth in Chapter XIV, particularly Pa. O.C. Rule 14.8 and Phila. O.C. Rule 14.8.A.
11. The primary language of the alleged incapacitated person is _____. My primary language is _____.
12. My failure to abide by the above will result in my removal as Guardian, and may result in my being found in contempt of Court, surcharged for any losses to the Estate, fined, and/or otherwise sanctioned.

Further, subject to penalty of law under 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I affirm that I have not been convicted of or pleaded guilty or no contest to any crime involving fraud, deceit, and/or financial misconduct.

Name of Guardian

Updated 6-01-19
Signature

Date

Decree Appointing Guardian of the Estate

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$_____ within _____ days of this Decree.

The Guardian of the Estate is **NOT** permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the Guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa. O.C. Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Estate. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i). A Final Report shall be filed by the Guardian of the Estate within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to _____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to the incapacitated person a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans'

Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

, J.

Counsel

Guardian(s)

Decree Appointing Guardian of the Person

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions to meet the essential requirements for his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Person of Ivan Smith, an incapacitated person.

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Person shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(ii). Pa. O.C. Rule 14.8(a)(3). A Final Report shall be filed by the Guardian of the Person within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to

_____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

_____, J.

Counsel

Guardian(s)

Decree Appointing Guardian of the Estate and Person

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of Ivan Smith,
An Alleged Incapacitated Person
O.C. No. XXX AI of 2019
Control No. XXXX

FINAL DECREE

AND Now, this day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs or to meet essential requirement of his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that _____ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person. _____ is appointed Guardian of the Person of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$ _____ within _____ days of this Decree.

The Guardian of the Estate is **NOT** permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa.O.C .Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person and Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person and Estate. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate and Person shall each file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i) and (ii). Pa. O.C. Rule 14.8(a)((2) & (3)). Final Reports shall be filed by the Guardian of the Estate and Person within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). Final Reports shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to _____ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).

BY THE COURT:

_____, J.

Counsel

Guardian(s)

Guardian Address Confirmation Form

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of _____

O.C. # _____ Control # _____

GUARDIAN ADDRESS CONFIRMATION FORM

I am the (check one):

☐ Guardian/Co-Guardian of Person and Estate

☐ Guardian/Co-Guardian of the Estate

☐ Guardian/Co-Guardian of Person

As the Guardian named in the above case, I affirm that my name, address, phone number, and email address should be recorded as follows:

Name _____ (Please _____ Print): _____

_____ Address: _____

_____ City: _____

_____ State: _____ Zip _____ Code: _____

Home Phone # _____ Mobile _____ Phone _____ # _____

_____ E-Mail: _____

_____ Preferred contact method: (Phone, Mail or
Email) _____

I understand that it is my responsibility to update the Court of my current contact information if any of it should change or become inaccurate, and I agree to do so immediately.

Signature

Date

Preliminary Decree Awarding Citation for Guardianship Hearing

COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of X,
An Alleged Incapacitated Person
O.C. No. X AI of 2018
Control No. X

PRELIMINARY DECREE

AND NOW, this _____ day of _____, 2019, upon consideration of the Petition for Adjudication of Incapacity and the Appointment of Plenary Guardian of the Person and Estate, it is hereby ORDERED and DECREED that:

1. A citation is awarded, directed to X, to show cause why he should not be adjudged an incapacitated person and why a plenary guardian of his person and estate should not be appointed; the hearing thereon to be held in Courtroom 41, City Hall, Philadelphia, PA, 19107 on _____, 2019 at _____.
2. Petitioner shall cause to be served (by personal service) the Citation with Notice and Petition, pursuant to the provisions of 20 Pa.C.S. §5511(a) and Pa.O.C. Rule 14.2, upon the alleged incapacitated person at least twenty (20) days prior to the court hearing. The contents and terms of the Citation with Notice and Petition shall be read and explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand in accordance with the provisions of 20 Pa.C.S. §5511(a).
3. At least twenty (20) days prior notice of the court hearing, together with a copy of the petition and citation, shall be given personally or by certified mail in accordance with the provisions of 20 Pa.C.S. §5511(a) to all persons who are *sui juris* and who would be entitled to share in the estate of the alleged incapacitated person if he died intestate, and the Person or Institution providing residential services to the alleged incapacitated person, and to -----.

Notice shall also be given to the Commonwealth of Pennsylvania, Office of Attorney General, as a possible intestate heir to the estate of the alleged incapacitated person. **(Include this section only when AIP has no next of kin).** Notice shall also be given to the U.S. Department of Veterans Affairs as a result of the alleged incapacitated person receiving veteran's benefits (or survivor benefits). **(Include this section only when AIP is a veteran or receives survivor benefits)**

4. An affidavit of service containing specific averments as to the above requirements in the two preceding paragraphs shall be presented at the beginning of the court hearing.

5. Petitioner and/or counsel for the petitioner shall notify the court, in writing, at least seven (7) days prior to the court hearing if counsel has not been retained by or on behalf of the alleged incapacitated person in accordance with the provisions of 20 Pa.C.S. §5511(a). This notice shall also contain all pertinent information which would indicate to the court whether or not counsel should be appointed to represent the interests of the alleged incapacitated person.
6. In accordance with Pa. O.C. Rule 14.2(c)(2), unless previously attached to the Petition, Petitioner shall submit for each proposed guardian, at least seven (7) days prior to the court hearing, the response to the Pennsylvania State Police criminal record check, issued within six months of the date of filing of the Petition. If any proposed guardian resided outside the Commonwealth of PA within the previous five (5) year period and was 18 years of age or older at any time during that period, the criminal record check from each state in which the proposed guardian resided within the five year period shall be submitted.

For criminal history reports from PA, see <https://epatch.state.pa.us/Home.jsp>.

7. The alleged incapacitated person shall be present at the court hearing unless it is established by clear and convincing medical evidence that his physical or mental condition would be harmed by his presence in court in accordance with the provisions of 20 Pa.C.S. §5511(a).
8. In accordance with 20 Pa.C.S. §5518, at the hearing on this matter the Petitioner must present testimony, in person or by deposition, from a medical professional, who must be qualified by training and experience to evaluate individuals with incapacities of the type alleged by the Petitioner, that establishes the nature and extent of the alleged incapacitated person's incapacities and disabilities and his mental, emotional, and physical condition, and adaptive behavior and social skills. The absence of such testimony and/or depositions shall preclude a declaration of incapacity and appointment of a guardian. Alternatively, the use of an Expert Report in lieu of testimony in person or by deposition shall be in accordance with Pa. O.C. Rule 14.3.
9. The Consent of Guardian and Guardian Address Confirmation Form (substantially in the forms annexed to this Preliminary Decree) shall be completed by the proposed guardian and presented to the Court at the time of the hearing.

BY THE COURT:

, J.

X, Esquire