

RULES OF THE COURT OF COMMON PLEAS OF LEBANON COUNTY  
ORPHANS' COURT DIVISION

RULE 1. LOCAL RULES OF ORPHANS' COURT DIVISION

1.1 Title.

Title and Citation of Rules. These rules adopted by the Court of Common Pleas – Orphans' Court Division of Lebanon County, Pennsylvania, as amended or supplemented, shall be known as the Lebanon County Orphans' Court Rules and may be cited as "Leb.Co.O.C.R. No. ."

COMMENT: The Rules of Court of Common Pleas of Lebanon County – Orphans' Court Division have been numbered to correspond with the numbering system employed by the Pennsylvania Orphans' Court Rules Committee.

1.2 Adoption of Lebanon County Court of Common Pleas Rules.

- A. The Lebanon County Court of Common Pleas – Civil Division Rules, insofar as applicable and not inconsistent with these rules, are hereby adopted as the rules governing the business of this Court.
- B. The pleadings and practice in the Orphans' Court Division shall conform to the pleadings and practice in equity as provided in Pennsylvania Rules of Civil Procedure.
- C. Exceptions may be filed to any Adjudication, Order or Decree not later than ten (10) days after the date thereof, and in the absence of exceptions filed within said period of time, said Adjudication, Order or Decree shall be final and definitive.

COMMENT: The foregoing rule was amended to avoid premature appeals and to prevent hearings on adoptions until after the appeal time has expired in cases involving the involuntary termination of parental rights. See In Re: Involuntary Termination of Parental Rights to B. M. D. and R. L. D., Pa. Supreme, December 21, 1979, 409 A.2d 404. See also Fiduciary Review, April, 1980.

1.3 Indexing of Proceedings.

Beginning on January 1 of each year, the Clerk of Court – Orphans’ Court Division shall assign to new matters of proceedings, consecutively, as they are filed or brought, numbers beginning with No. 1 of that year.

1.4 Argument Court.

- A. The Clerk of Court – Orphans’ Court Division shall maintain an argument list and the procedure for listing matters for argument shall conform to the Rules of the Court of Common Pleas – Civil Division of Lebanon County, Rule 7.
- B. Argument court shall be held at the same time as argument court established by the Rules of the Court of Common Pleas – Civil Division of Lebanon County.
- C. The Clerk of Court – Orphans’ Court Division, shall furnish the Prothonotary of the Court of Common Pleas – Civil Division of Lebanon County, at least twenty (20) days before argument court, with a list of cases ready for argument, which the Prothonotary shall add to the list of cases to be argued in the Court of Common Pleas.

1.5 Attorneys: Members of the Bar and Practice.

No person, other than attorneys who have been admitted to the Bar of the Supreme Court of Pennsylvania, shall be permitted to enter an appearance on behalf of any party. The entry of appearance by counsel shall be in accordance with Leb.Co.C.C.P. Rule 14.

1.6 Sureties.

- A. No individual surety shall be accepted unless accompanied by an affidavit of the proposed surety setting forth:
  - 1. his name, residence and occupation;
  - 2. the location of some or all of the real property owned by him;
  - 3. the name in which title to the property mentioned is held and a statement that no other person

has any interest in the real property mentioned;

4. the encumbrances upon the real property mentioned;

5. a statement indicating the minimum market value of the property mentioned;

6. a statement that his net financial worth exceeds the amount of the bond to which he is to become a surety.

B. When the bond does not exceed five thousand dollars (\$5,000.00), the surety may be approved by the Clerk or the Register of Wills of Lebanon County. All bonds with individual surety in excess of five thousand dollars (\$5,000.00) must be approved by the Court. Approval shall be endorsed upon the bond.

C. Bonds with corporate surety shall be supported by proof of the authority of the agent to execute the bond as surety.

RULE 2. (RESERVED).

RULE 3. PLEADINGS AND PRACTICE.

3.4 Matters Requiring Action by the Court.

A. Any petition, application, motion or other written document requiring the issuance of a preliminary order or other action by the Court, shall, at the time of the filing thereof, have attached thereto immediately prior to the first page thereof, a form of order of court (including the caption of the proceeding), which is appropriate to the nature of the document filed.

B. Where a party to any proceeding requests the Court to enter a final decree in favor of said party, the said party or counsel for said party, shall, prior to or at the time of said request, submit to the Court a written form of said decree (including the caption of the proceeding) and if such relief is requested by the filing of a petition, application, motion or other written instrument, a form of the final decree (including the caption of the proceeding), shall, at the time of the filing of said written instrument, have attached thereto, immediately prior to the first page thereof, a form

of said decree.

3.6 Depositions, Discovery and Production of Documents.

The Rules pertaining to Depositions, Discovery and Production of Documents as contained in the Pennsylvania Rules of Civil Procedure shall be applicable to the Orphans' Court Division of the Court of Common Pleas of Lebanon County.

RULE 4. (RESERVED)

RULE 5. SERVICE.

5.1 Service by Publication.

In all instances where service by publication is authorized by the Pennsylvania Supreme Court Orphans' Court Rules, service shall be in accordance with Lebanon County Court of Common Pleas – Civil Division Rule 16.

RULE 6. ACCOUNTS AND STATEMENTS OF PROPOSED DISTRIBUTION.

6.1 Accounts and Statements of Proposed Distribution.

A. Every fiduciary filing an account shall at the same time file a separate statement of proposed distribution, which account and statement, if filed in the Office of the Register of Wills or filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas, shall be filed in the original copy only, and the account and statement shall conform to the following rules:

1. The first page of the account shall set forth:
  - (a) the name of the estate of the decedent or other party for which the account is being filed;
  - (b) the name and capacity of the accountant;
  - (c) the chronological number of the account and whether it is a final account;

- (d) the date of death;
- (e) the date of issuance of letters;
- (f) the date of the first complete advertisement of letters in the case of a decedent (in other cases, the manner in which accountant was appointed);
- (g) the date of the appointment;
- (h) the reason for said appointment if accountant is a court appointed fiduciary.

2. The account shall state:

- (a) the sources of all receipts;
- (b) the dates of all receipts (other than those pending at the time of the preparation of the account);
- (c) the dates on which fiduciary received property or commenced to exercise jurisdiction thereof;
- (d) the dates of the receipts of the proceeds of sale of all property;
- (e) all of the foregoing shall, to the extent applicable, be stated in the following categories:
  - (1) Realty-Principal;
  - (2) Realty-Income;
  - (3) Personalty-Principal;
  - (4) Personalty-Income.

3. The account shall state:
  - (a) the dates of all disbursements or other disposition of assets (other than the dates of the payment of expenses which are made shortly prior to the preparation of the account, or simultaneously with, or shortly after, the filing of the account);
  - (b) the names of all recipients of all disbursements or distribution, and the purposes thereof;
  - (c) said disbursements and dispositions shall be set forth, to the extent applicable in the following categories:
    - (1) Burial expenses and debts;
    - (2) items of administration and taxes;
    - (3) assets converted at a loss;
    - (4) investments during administration (which amounts thereof need not be included in the total amount of credits);
    - (5) items of distribution (which may be accounted for at the appraised values).

4. Where a number of payments have been received from the same source or disbursed to the same recipient for the same purpose over a period of time, such receipts or disbursements may be stated in total amounts only, with the dates of beginning and ending of the period covered.

5. After the listing of all debits and credits, the account shall show a recapitulation of all debits and credits showing the balance, if any, in the possession of the accountant.

6. The recapitulation shall be followed by a statement of all assets held by accountant on the date of filing the account,

which assets shall be separately itemized.

7. The account shall, at the end thereof, be sworn or affirmed to by the accountant, and immediately prior to the notarization the account shall contain a written statement executed by the accountant stating that the notice of the filing of said account required by Supreme Court Orphans' Court Rules and by the Rules of this Court has been given.

8. The statement of proposed distribution shall be attached to and precede the first page of the account and shall set forth:

- (a) the name of the estate of the decedent or other party for which the statement is filed;
- (b) the name and capacity of the accountant filing the statement;
- (c) the chronological number of the account to which it pertains and whether the account is a final account;
- (d) a statement of the total value of the property to be distributed;
- (e) an itemized statement of what the total consists of;
- (f) the name and address of the attorney or law firm representing the party filing the account; in the event no attorney is involved, the name and address of the individual filing the account shall be set forth.

9. The statement pertaining to the estate of a decedent shall state whether the decedent died testate or intestate, and in the case of a living person shall state the status and whereabouts of the person and shall set forth a brief statement of the reasons or basis for the proposed distribution and the names and addresses of the distributees and the amount of money and value and type of other assets awarded to each distributee.

10. The statement shall be signed by the accountant at the end thereof and, immediately prior to the signature of the accountant, shall contain a written statement that the notice of

the filing of the statement required by Pennsylvania Orphans' Court Rules and Rules of this Court has been given.

- B. In lieu of filing a statement of proposed distribution, the fiduciary may file a statement stating that the fiduciary will, after the confirmation of the account or the filing of any exceptions thereto, proceed to file a petition with the Court for the appointment of an Auditor to determine the validity of any claims, exceptions to the account, the manner of distribution, and such other matters which may require determination, which statement shall be attached to, and precede the first page of, the account, and shall contain a brief statement of the reasons for the appointment of an Auditor. The petition for the appointment of an Auditor shall comply with the provisions of Leb.Co.O.C. Rule No. 8.0.
- C. No account shall be accepted for filing or advertised as hereafter set forth unless it conforms with the Pennsylvania Supreme Court Orphans' Court Rules.
- D. The Register of Wills, the Clerk of the Orphans' Court Division, and the deputies and clerks of said offices, are hereby authorized, empowered and directed to refuse to accept for filing purposes, and to return, any account which does not appear to substantially comply with the provisions of this Rule. The Clerk of the Orphans' Court Division shall present, or cause to be presented to the Court, a copy of all accounts filed for confirmation on the Monday after the last day for filing accounts for review and approval, together with a copy of the inventory and statement of debts and deductions.

### 6.3 Notice to Parties in Interest.

- A. No account shall be confirmed Absolutely, nor any decree of distribution made unless the accountant, at least ten (10) days prior to the date of confirmation Nisi, has given written notice of the filing of the account and of the filing of the statement of proposed distribution to every unpaid claimant who has given written notice of his claim to the accountant, and to every other person known to the accountant to have or claim an interest in the estate as creditor, beneficiary, heir or next of kin. Said written notice shall state the time when said account and statement of proposed distribution will be confirmed Absolutely, and the last day to file exceptions to said account and statement



of proposed distribution, and a copy of the statement of proposed distribution shall also be given or mailed to all of said parties.

B. The Clerk of the Orphans' Court shall advertise accounts and statements of proposed distribution as follows:

1. The notice shall be advertised in one newspaper of general circulation published within the County at least once a week during the four weeks immediately preceding the time for presentation of the accounts to the Court for confirmation Nisi or for Absolute confirmation.

2. The notice shall be advertised in a like manner in the Lebanon County Legal Journal.

3. The advertisement shall set forth the names of the accountants and the estate or trust they represent and that their accounts and statements shall be presented to the Court for confirmation. The clerk shall advertise when and where such accounts shall be confirmed.

#### 6.4 Time for Filing.

Unless the Court directs otherwise, accounts and statements of proposed distribution shall be filed in duplicate on or before the first Friday of the month preceding the month in which they are to be confirmed. If said Friday is a holiday, they shall be filed on or before the last business day preceding said Friday.

#### 6.10 Objections to Accounts and Statements of Proposed Distribution.

Objections to accounts and statements of proposed distribution shall be in writing, numbered consecutively, and signed by the objector or his counselor, and each objection shall:

- A Be specific as to description and amount;
- B. Raise but one issue of law and fact, but if there are several objections to items included in or omitted from the account relating to the same issue, all such objections shall be included in the same objection;
- C. Set forth briefly the reason or reasons in support

thereof; and

- D. Any objections or exceptions which contain allegations of fact not contained in said account or statement of proposed distribution shall be verified, and all objections and exceptions shall contain a statement that they are not made or taken for purposes of delay. All objections or exceptions shall be filed with the Clerk of the Orphans' Court not later than ten (10) days after confirmation Nisi, and a copy of said objections shall be served upon both the accountant and his counselor, which service may be made by registered or certified mail forwarded to the last known address of the accountant and to the office of the counselor.

#### 6.11 Confirmation of Accounts. Awards.

Unless the Court directs otherwise all accounts and statements of proposed distribution shall be presented to the proper Court for confirmation Nisi on the first Monday of each month, except during the month of July. If no objections or exceptions are filed thereto, the Clerk of the proper Court shall confirm said accounts absolutely ten (10) days thereafter, which confirmation shall constitute an adjudication of such accounts, and a final decree approving Absolutely the statements of proposed distribution and directing distribution in accordance therewith, shall thereupon be made and entered by the Clerk of the respective Court. In the event the first Monday of the month falls on a holiday or if the dates of confirmation fall on a holiday the accounts and statements of proposed distribution shall be confirmed the following day. In the case of the request for the appointment of an Auditor, the auditor shall not be appointed until ten (10) days after the account or statement of proposed distribution would have been confirmed Absolutely had no exceptions been filed.

### RULE 7. EXCEPTIONS.

#### 7.1 Exceptions.

- A. No exceptions shall be filed to orders or decrees entered in proceedings unless the right to except thereto is expressly conferred by Act of Assembly, by General Rule, or by Special Order of Court; and all decrees other than those to which exceptions are so allowed to be taken shall be final and definitive.
- B. All exceptions to Findings of Fact or to Conclusions of Law

shall be in writing, shall be specific, and shall be accompanied by an affidavit that they are not filed for the purpose of delay but because the exceptant believes error was committed or injustice was done.

- C. Exceptions shall be filed with the Clerk of the Orphans' Court not later than ten (10) days after the order or decree Nisi to which exception is taken has been filed, and copies of all exceptions filed shall, immediately after filing, be sent by counsel for the exceptant to all other counsel who appeared of record and to the hearing Judge.

## RULE 8. AUDITORS AND MASTERS.

### 8.0 Appointment and Compensation of Auditors and Masters.

- A. The Court may, on its own motion, or upon petition of the accountant or his counselor, or of any other party in interest, appoint an Auditor or Master, who shall be, in the absence of special circumstances to be determined solely by the Court, a member of the Bar of Lebanon County, Pennsylvania. However, the Court may, in its sole discretion, at any time after the appointment of an Auditor or Master, recall the matter for attention by the Court.
- B. The Petition for the Appointment of an Auditor or Master shall contain the following information when applicable:
  - 1. The identity and residence of the Petitioner.
  - 2. The relationship if any of the Petitioner to the decedent.
  - 3. In the event the decedent left a Will, a copy of the Will or deed of trust is to be attached as an exhibit to the Petition.
  - 4. In the case of intestacy, the identify and address of all of the heirs of the decedent entitled to share in the estate.
  - 5. A statement disclosing the gross amount of the estate and the net amount available for distribution.
  - 6. A brief statement as to the legal or factual issues to be determined by the Auditor or Master.

7. The identity of all local counsel as attorney for any party or parties in interest.

- C. No suggestion, stipulation, motion or agreement by the parties or their counsel as to the identity of the person to be appointed Auditor will be considered under any circumstances.
- D. Any person appointed by the Court as an Auditor or Master under these rules shall be compensated by reasonable and customary fees as are agreed upon by the counselors of all parties in interest, or as fixed by the Court and paid from such sources as the Auditor shall direct.
- E. The Auditor's or Master's hearing shall be held at a time and place indicated by the Auditor or Master not later than forty-five (45) days after the Auditor's or Master's appointment, unless such time be extended by stipulation of all counsel of record or by Order of Court. The Auditor's or Master's hearing shall be held in the room or place assigned by the Court Administrator.
- F. The report of the Auditor or Master shall be returnable within ninety (90) days after his appointment. The return date shall be extended only upon application to the Court and for good and sufficient cause shown.

#### 8.1 Notice of Hearing.

Ten (10) days prior written notice of the time and place of the Auditor's or Master's hearing shall be given by the Auditor or Master to all counsel of record and all interested parties not represented by counsel, known to the Auditor or Master; and in addition thereto, by advertising the time and place of hearing once a week for two (2) consecutive weeks, within a period of one (1) month immediately prior to the hearing, in a newspaper of general circulation in Lebanon County and in the Lebanon County Legal Journal. The Auditor or Master shall give evidence of such advertisement by attaching proofs of such publication to the Auditor's or Master's Report and making them a part thereof.

#### 8.5 Transcript of Testimony.

- A. The Auditor's or Master's hearing shall be held continuously from day to day for a full Court day or its equivalent, where possible, during each day in which it is held, and shall not finally be adjourned by the Auditor

or Master until the testimony of all the witnesses and parties to the case shall have been fully and completely presented and the reception of evidence closed.

- B. Testimony given at an Auditor's hearing shall be stenographically recorded.
- C. The transcript of testimony taken before an Auditor or Master shall be filed with his report.
- D. The Auditor or Master shall, in the first instance, pass on questions of evidence. If the Auditor is of the opinion that the testimony is clearly frivolous and irrelevant, or that the witness is clearly incompetent, he need not take the testimony, but the Record shall show the offer and the purpose of it, the objection and the ground of it, as well as the decision of the Auditor or Master, so that if objection be taken to the Report of the Auditor or Master on this ground his decision may be properly reviewed by the Court. However, if the Auditor or Master is in doubt, the testimony shall be taken subject to exception and the question may be raised upon exception to his Report.

#### 8.6 Notice of Filing Report.

- A. Notice of Filing Report. The Auditor or Master shall give three (3) days' prior written notice of his intention to file the report and to apply to the Court for confirmation Nisi thereof to each counselor of record and to all parties not represented by counsel, and shall make a copy of his report available for their inspection during such notice period.
- B. Exception. Any party in interest shall have the right to file exceptions to the report of an Auditor or Master within ten (10) days after the filing and confirmation Nisi thereof. If exceptions are filed, the issue shall be referred to the Court for placement on the argument list.
- C. Re-Examination by Auditor or Master. In the event that exceptions are filed, the Auditor or Master shall have a period of twenty (20) days prior to argument to re-examine the subject of the exceptions and to amend the report if, in the Auditor's or Master's opinion, the exceptions are in whole or in part well-founded.

- D. Argument. Argument before the Court shall be confined to the exceptions filed to the Auditor's or Master's report, either as originally submitted or amended; and the Court may, in its sole discretion, remand the report of the Auditor or Master for further hearing.

8.7 Confirmation of Report.

The report of an Auditor or Master shall be confirmed Absolutely as of course, unless exceptions have been filed thereto pursuant to these rules.

RULE 9. OFFICIAL EXAMINERS.

9.1 Appointment of Official Examiners.

The Court, by Special Order, may appoint an official examiner or examiners who shall examine the assets held by any fiduciary in his fiduciary capacity.

RULE 10. APPEALS FROM THE REGISTER OF WILLS.

10.1 Form of Appeal.

- A. Filing. Appeals taken from the judicial acts or proceedings of the Register shall be addressed to the Orphans' Court but filed with the Register.
- B. Petition sur Appeal. After an appeal has been taken to the Orphans' Court from any judicial act, proceeding or decree of the Register, the appellant shall present a petition to the said Court within thirty (30) days after filing such appeal and shall allege that an appeal has been filed and bond approved by the Register and filed in his office within ten (10) days thereafter.

10.2 Issuance of Citation.

Upon the filing of a Petition, the Court will award a Citation to all interested parties, including the Register, to show cause why the appeal should not be sustained and the decision complained of set aside, and in cases where issues of fact exist, why the disputed issues of fact should not be submitted to a jury. The Citation, with a copy of the appeal, shall be served in the manner provided by the Orphans' Court Act of 1951. Such Citation will be made returnable to a day certain but not less than ten (10) days after issuance.

10.3 Appeals from Inheritance Tax Appraisement.

Appeals from the appraisal of the property of a resident decedent for Transfer Inheritance Tax purposes shall be taken pursuant to the provisions of the Act of June 20, 1919, P.L. 921, Section 23, as amended, by filing such appeal, together with specifications of objections and together with security approved by the Orphans' Court in the offices of the Clerk of the Orphans' Court.

10.4 Compromise, Settlement or Discontinuance Claims of Minors and Incompetents.

- A. The following persons shall appear before the Court at the designated time for a hearing on all petitions to compromise, settle or discontinue the claim or action of a minor:
1. the minor;
  2. the parents or surviving parent of the minor;
  3. if no surviving parents, the adults or adult who stands in loco parentis;
  4. the guardian of the person or estate of the minor;
  5. the minor's physician, or, in lieu thereof, a written statement therefrom.
- B. The reasons for the absence of any of the persons set forth in Paragraph 1 shall be set forth in the petition, and notice of the time and place of presentation shall be given as the Court may direct.
- C. If a claim of counsel fees arises out of a contingent fee agreement (Pa.R.C.P. Rule 202), the agreement shall be available for inspection by the Court at the time of presentation of the petition.
- D. The foregoing rule shall also apply to actions to which an incompetent is a party (Pa.R.C.P. rule 2064).

RULE 11. (RESERVED)

RULE 12. SPECIAL PETITION.

12.1 Family Exemption.

A. Time for Filing. Unless the Court extends the time for so doing, all claims for the family exemption shall be made within one (1) year after the death of the decedent or within one (1) year after letters have been first advertised. A personal representative may petition the Court for a rule upon any person prima facie entitled to the family exemption to show cause why the said claim should not be made prior to the expiration of the aforesaid one year period.

B. Personal Property.

1. Any person or persons who are entitled to retain or claim any personal property for or on account of the family exemption under Chapter 31, Section 3121 of the Decedents, Estates and Fiduciaries, P.L. 508 (20 Pa.C.S.A. Sec. 3121) and its amendments may retain or claim cash and such other property as may qualify for said exemption at the values fixed by the inventory and appraisement, by mailing or delivering written notice of such retention or claim to the personal representative or representatives of the estate; to the attorney for the estate, if any; to the person having possession of said property if the possessor is other than the claimant or personal representative; and to all persons or parties having any interest in the estate of the decedent.

2. If no inventory and appraisement has been filed or if said articles claimed do not appear on the inventory and appraisement, any adult person or persons who desire to retain or claim personal property for or on account of said family exemption shall file a petition to the Court which shall set forth sufficient facts establishing a prima facie right of the petitioner or petitioners to the exemption and the articles claimed and the values of all articles claimed which have indefinite values and the manner by which the said value were ascertained. The petitioner may attach an affidavit of one or more qualified persons as to the values of said articles.

3. Notice of the filing of any such petition shall be mailed or delivered to the personal representative or



representatives of the decedent's estate, if any; to the attorney for the estate, if any; to the person having possession of the personal property claimed if the possessor is other than the petitioner or the personal representative; and to all other persons interested in said estate as surviving spouse, beneficiary or next of kin. A copy of said notice shall be attached to said petition. Such notice need not be given to any person whose waiver of said notice is attached to the petition.

4. If no objection or answer containing objections to the allowance of said claim is filed with said Court within twenty (20) days after the filing of said petition, the Court may grant the prayer of the petition and fix a time and place for a hearing on said petition and thereafter proceed to determine the matter, with or without the appointment of appraisers to determine the value of said articles.

5. A form of order of Court or decree corresponding with the prayer of the petition shall be attached to any petition presented to the Court.

6. Any person or persons who desire to object to the retention of any personal property, or to the claiming of any personal property, for or on account of the family exemption by any person or persons, shall file a petition with the Court pursuant to the provisions of Section 3122, Chapter 31 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. Sec. 3122) and its amendments, within twenty (20) days after receipt of said notice of retention or claim, and shall serve a copy of said petition upon the personal representative or representatives of the estate of decedent; upon the attorney representing the estate of said decedent; and upon the person or persons making said retention or claim of said property, or the attorney for said person or persons.

7. A claim for personal property for or on account of the family exemption may be made in a petition filed under Chapter 31, Section 3102 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. Sec. 3102) and its amendments.

C. Real Estate.

1. Any person who desires to claim the family exemption provided for under Chapter 31, Section 3121 of

the Decedents, Estates and Fiduciaries, and its amendments, in whole or in part out of real estate, shall present a petition to the Court which shall set forth:-

- (a) The name and address of the petitioner and his relationship with the decedent.
- (b) The name, domicile and date of death of the decedent and whether decedent died testate or intestate.
- (c) Whether or not letters on the estate have been granted and the date of issuance of said letters, if granted.
- (d) The name and address of the personal representative, if any.
- (e) The name, address, relationship, and interest of all beneficiaries or heirs at law of decedent.
- (f) The name and address of the person in possession of the real property claimed by the petitioner.
- (g) Facts establishing a prima facie right of the petitioner to claim said family exemption.
- (h) A description of the real property claimed and its location.
- (i) The names, addresses and respective interests of all other owners of said real property, if any.
- (j) A list of all costs of administration and a statement as to the status thereof.
- (k) Whether the petitioner requests the allowance prior to the confirmation of the account filed in said estate or to the audit thereof.

- (l) An averment as to the capacity of all other known parties in interest either as spouse, devisee or heir at law and the existence of a fiduciary or the necessity of an appointment of a fiduciary for any such other party.
- (m) Averments of such other additional facts as petitioner deems appropriate to aid the Court in passing upon the petition.
- (n) A request to the Court to appoint two appraisers to appraise the value of the real property claimed for or on account of the family exemption and to set apart said real property to the petitioner for or on account of said exemption.

2. Upon the presentation of any petition for the family exemption in whole or in part out of real estate, the Court shall direct the petition to be filed and shall fix the time and place for a hearing of said petition. Written notice of the filing of said petition and of the time and place of hearing thereof shall be given to the personal representative of the estate, or his attorney, and to such other persons and in such manner as the Court shall direct.

3. At the hearing of said petition, the Court, if it deems proper, shall appoint two appraisers to appraise the value of the real property claimed for or on account of the family exemptions, who shall then proceed, with due diligence to appraise the value of said real property and thereafter file a written report, under oath, with the Court.

4. The appraisers shall notify the claimant or his attorney of the place, time and date of said appraisal not less than fifteen (15) days prior to said appraisal and the said claimant or his attorney shall then give written notice thereof in such manner and to such persons as the Court shall direct.

5. If the appraisers cannot agree upon a value of said real property or if they fail to perform their duties with due diligence, the claimant shall report such facts in writing to the Court and the Court shall then appoint two other appraisers.

6. The appraisers shall notify the claimant, or his

attorney of their value of said real property, and the claimant, or his attorney shall then proceed to prepare and file a report of said appraisal for said appraisers, which report shall set forth:-

- (a) the names and addresses of the appraisers;
- (b) the place, time and date of said appraisal;
- (c) the description of the property appraised;
- (d) the approximate time consumed by the appraisers to perform all their duties pertaining to said appraisal;
- (e) such additional facts as may be necessary to acquaint the Court with all information and data necessary for the Court to act upon said report.

7. The claimant or his attorney shall give not less than five (5) days' written notice of the time the appraiser's report will be filed for confirmation, which notice shall contain a statement that if no exceptions are filed to said report within ten (10) days after the filing thereof, the report will be confirmed Absolutely by the Court and the said real estate set apart to the claimant. Said notice shall be given in such manner and to such persons as the Court shall direct.

8. If exceptions are filed to said report prior to the Absolute confirmation thereof, the Court shall fix a time and place for the hearing of said exceptions and then either dismiss said exceptions and set apart said real estate or sustain the exceptions and appoint two other appraisers or take such action as the Court may deem just and appropriate.

9. If no exceptions are filed to said report within ten (10) days after the filing thereof, the Court shall, on motion of the claimant or his attorney, confirm said report and set apart said real estate to the claimant.

10. Upon confirmation Nisi of the report of appraisers of real estate claimed in whole or in part for or on account of the family exemption, the Court shall determine and fix the compensation of said appraisers and direct the payment thereof out of the estate of the decedent as general administration

expenses.

11. A certified copy of the decree confirming an appraisal of real property and setting it apart for or on account of the family exemption shall be recorded and registered in accordance with Chapter 31, Section 312 of the Decedents, Estates and Fiduciaries (20 Pa.C.S.A. Sec. 3123) and its amendments.

12.2 Allowance to Surviving Spouse of Intestate.

If an appraisal of property is needed, the manner of appraising the property, of filing and confirming the appraisal, and of advertising or giving notice thereof, shall be by Special Order in each case.

12.3 Extension of Time for Filing of Surviving Spouse's Election.

A petition for the extension of time in which the surviving spouse may file an election to take against the Will or any other testamentary disposition shall include the requirements for a petition under Rule 12.3(a) of the Orphans' Court Rules of the Supreme Court, and the time and place that said election shall be filed shall be by Special Order in each case.

12.5 Appointment of Guardian for the Estate or Person of a Minor

- A. If the minor is over the age of fourteen (14), he shall appear in person at the presentation of the petition and shall make his selection at the Bar of the Court, unless excused by the Court for cause shown.
- B. If the minor is fourteen (14) years of age or under, he need not appear in Court at the presentation of the petition.
- C. Written consent of the parents or surviving parent of the minor to the appointment of a guardian for his estate or person shall be attached to the petition unless a reason is set forth in the petition why the said consent is not attached. If none of the parents have given their written consent, the consent of the adult or adults who stand in loco parentis shall be attached. If none of the aforesaid consents are obtained, the petitioner shall set for the reasons therefore and shall give such prior notice of the presentation of the petition as the Court shall direct.

12.13 Settlement of Small Estates.

- A. A petition for the settlement of a small estate under Chapter 31, Section 3102 of the Decedents, Estates and Fiduciaries, and its amendments, shall set forth:
1. The name and address of the petitioner and his relationship with the decedent.
  2. The name, domicile and date of death of the decedent and whether decedent died testate or intestate.
  3. Whether or not letters on the estate have been granted and the date of issuance of said letters, if granted.
  4. The name and address of the personal representative, if any.
  5. The name, address, relationship and interest of all known beneficiaries or next of kin of decedent.
  6. A statement as to whether any wages or accrued pension, etc., has been paid under Section 3101 of Chapter 31 of the Decedents, Estates and Fiduciaries, and its amendments, and the name, addresses and relationship of any recipients of such payments.
  7. An averment as to the capacity of all parties in interest and the existence of a fiduciary or the necessity of an appointment of a fiduciary for any party in interest or any party not represented.
  8. Averments showing fully the status of any retention of property or claim for the family exemption.
  9. An itemized list of all the assets of decedent and the respective values thereof which may be attached to the petition.
  10. An explanation as to the manner in which the values of articles having indefinite values were ascertained. The petitioner may attach to said petition an affidavit or affidavits of one or more qualified persons as to the values of said articles.
  11. A list of all known disbursements made from

the estate prior to filing of the petition.

12. A list of all unpaid claimants, their addresses, and the amounts claimed, of whom petitioner has notice or knowledge.

13. A statement as to the inheritance tax status and amount known to be due, if any.

- B. If the decedent dies testate, a copy of the Will shall be attached to said petition.
- C. If the petitioner has given previous written notice of the intention to present said petition, an averment as to the time, manner and to whom said notice had been given shall be set forth in said petition and a copy of the written notice shall be attached to said petition. In such cases, the notice shall be given not less than ten (10) days prior to the filing of the petition.
- D. Any claim for the family exemption out of personal property may be made in this petition, and if so made, the said petition shall also contain averments of facts required in a separately filed petition for said family exemption out of personal property.
- E. Petitioner may aver such additional facts as petitioner deems appropriate to aid the Court in passing upon the petition.
- F. A form of decree corresponding with the prayer of the petition shall be attached thereto.

RULE 13. (RESERVED)

RULE 14. (RESERVED)

RULE 15. ADOPTION.

15.1 Hearings.

- A. At the hearing on a petition for voluntary relinquishment or abandonment, the presence of the petitioners is required, and they shall be examined under oath to ascertain the truth of the facts set forth in the petition. The presence of the minor shall not be required.

- B. Hearings on a petition for adoption, voluntary relinquishment and/or abandonment shall be private and not in open Court, unless otherwise ordered by the Court.
- C. At the hearing on a petition for Adoption, the presence of the following is required except by special order:
  - 1. The petitioners.
  - 2. The person whose adoption is sought.
  - 3. All persons whose consent is necessary under the adoption laws, except the natural parent or parents who have executed a proper legal consent and specifically waive their right to be present.
  - 4. Such other persons as the Court may direct by special order.
- D. Those required to be present at an adoption hearing shall be examined under oath to ascertain the truth of the facts set forth in the petition and a record made of their testimony. The record shall not be transcribed unless ordered by the Court.

RULE 16. MARRIAGE.

16.1 Waiver of Waiting Period.

The presence of the petitioners shall be required at the hearing on a petition to waive the three day waiting period, unless excused by the Court.

16.2 Minors Under the Age of Sixteen.

No petition for issuance of a license to marry to a person under the age of sixteen (16) years shall be presented without the written consent of the parents or surviving parent or legally appointed guardian, without leave of Court for cause shown. The minor, the intended spouse and a parent, surviving parent or guardian of all parties under the age of 16 years shall be present at the time of the presentation of the petition for examination by the Court, other than such parties as may be excused by the Court.

RULE 17. (RESERVED)



RULE 18. PROMPT DISPOSITION OF MATTERS AND TERMINATION OF INACTIVE CASES.

- A. The Clerk of Court-Orphans' Court Division, shall list for general call at the first civil argument court held in September of each year, all civil matters in which no steps or proceedings have been taken for two years or more. Prior thereto, they shall give notice thereof to counsel of record and to the parties for whom no appearance has been entered as provided by Pa.R.J.A. 1901(c). If no action is taken or written objection is filed in such matter prior to the commencement of the general call, the Clerk of Court – Orphans' Court Division, shall strike the matter from the list and enter an order as of course, dismissing the matter with prejudice for failure to prosecute under the provisions of this Rule. If no good cause for continuing the matter is shown at the general call, an order shall be entered forthwith by the Clerk for dismissal.

RULE 19. FOR OF PLEADINGS, PETITIONS, ACCOUNTS, BRIEFS AND DOCUMENTS.

- 19.1 All pleadings, petitions, briefs, accounts, statements of proposed distribution, reports of auditors and other similar documents to be filed in the Office of the Orphans' Court Division of the Court of Common Pleas of Lebanon County, Pennsylvania, shall be on white paper of good quality approximating 8 ½" by 11" in size.
- 19.2 The margin from the top of the first or front page of any of said papers shall be not less than 3" and of any subsequent pages shall be such that the top line thereof shall be visible after the pages of any of said documents are bound together. The margin from the sides and bottom of all the pages of any of said documents shall be not less than 1".
- 19.3 The lettering shall be on only one side of a page, and shall be typed, printed, or duplicated by any copying process which produces a clear black image on white paper, and shall be clearly legible and not smaller than typewriting pica with line spacing (except for quotations) not closer than typewriting double spacing.
- 19.4 All pages constituting a single document must be firmly bound together and any metal fasteners or staples must be covered.
- 19.5 The caption of the document, including the names of the parties involved and the nature of the document shall appear on the

first page of the document.

- 19.6 No backers shall be required on any of said documents.
- 19.7 Where a note, bond, financing statement, security agreement or document (other than the items mentioned in paragraph 1 hereof) is submitted for filing on non-standard paper, the original may be accepted and stamped, and the submitted may then promptly substitute an exact copy prepared on standard paper, which exact copy shall then be treated as if filed on the date on which the non-standard paper was tendered and it shall then be substituted for the non-standard paper.
- 19.8 The provisions of this Rule shall no prohibit the filing of any paper or document which is not the standard size paper where the size, form and nature of the non-standard document is prescribed by law.