

## **Orphans' Court Procedural Rules Committee Report**

### **Amendment of Pa. O.C. Rules 1.7, 1.8, 2.1, 2.5, 2.7, 3.5, 3.7, 4.3, 4.6, 5.1, 5.3, 5.4, 7.1, 10.1, and 10.5, Amendment of the Index to the Appendix of Forms, and Rescission and Replacement of Forms OC-01 through OC-05 and RW-03 through RW-10**

In 2015, the Supreme Court of Pennsylvania adopted a substantial rewrite of the Orphans' Court Rules with the rescission and replacement of Rules 1.1 through 13.3 and Rule 17, and amendment of Rules 14.1 through 16.12.<sup>1</sup> Following the implementation of the rewritten Rules in 2016, members of the bench, bar, and members of the Orphans' Court Procedural Rules Committee ("Committee") shared comments and suggestions to refine further the Rules and Forms. The Committee reviewed these comments and suggestions, and, when necessitating more than a perfunctory change, published proposed amendments for public comment. See 48 Pa.B. 3571 (June 16, 2018); 48 Pa.B. 1271 (March 3, 2018); 48 Pa.B. 728 (February 3, 2018); 48 Pa.B. 486 (January 20, 2018). The Committee made a recommendation to the Court, and the following Rule changes were made:

**Rule 1.7:** An Explanatory Comment was added to Rule 1.7 to clarify that the Rule does not address procedures for withdrawal of counsel before the Register of Wills, and that withdrawal of counsel before the Register shall be in accordance with local rule or at the discretion of the Register.

**Rules 1.8 and 10.1:** Rules 1.8 and 10.1 were amended to eliminate non-substantive variations in style and format as the sole basis for rejection of an otherwise compliant filing. Forms may differ stylistically from the Supreme Court-approved forms but must be identical as to content and ordering.

**Rule 2.1:** Rule 2.1(b)(4)(iv) sets forth the requirements for signature and verification pages, and currently requires the "signature and verification pages signed by all the accountants stating the Account and verified by at least one of the accountants." The Rule was amended to delete "and verification" from that phrase so it is not inconsistent with the remainder of the sentence, which only requires verification "by at least one of the accountants."

**Rule 2.5:** Rule 2.5(a) was amended to establish that notice of the filing of the Account must also be provided to each co-fiduciary who does not join in the statement of Account. Rule 2.5(c) was amended to clarify that the reference to a "qualified beneficiary" in that Rule only applies to a distribution made to a trust. The phrase "having a charitable interest" was added to Rule 2.5(c) to describe more accurately an estate under this Rule. Rule 2.5(d) was amended to provide that a party residing outside the United States has 60 days, rather than 20 days, in which to file an objection. Rule 2.5(d) was amended to

---

<sup>1</sup> See Order of December 1, 2015, No. 682, Supreme Court Rules Docket.

clarify the “time and place” of the audit in Rule 2.5(d) by adding the word “date” to that phrase. Finally, the Explanatory Comment to Rule 2.5 was amended to explain that it is permissible for a party to waive the written notice required by the Rule.

**Rules 2.7 and 3.7:** These rules were amended to delete mailing requirements and to add a cross-reference to the service requirements set forth in Rule 4.3.

**Rule 3.5:** The Note to Rule 3.5 was amended to eliminate the reference to subparagraph (d) of the Rule, which was deleted in the 2015 rewrite. The Committee did not publish this proposed amendment for public comment as it is of a typographical or perfunctory nature.

**Rule 4.3:** New subparagraph (f) was added to Rule 4.3 to establish a general requirement to attach a certificate of service to any legal paper filed or served pursuant to this Rule.

**Rule 4.6:** The term “party” as used in Rule 4.6 was deleted and replaced with the defined term “interested party” to ensure that it was sufficient in scope to include those having an interest in the subject of the proceeding.

**Rule 5.1:** Rule 5.1, pertaining to declaratory judgment actions, and the Explanatory Comment thereto were amended to cross-reference Rule 3.5 regarding the use of citations when commencing a declaratory judgment action.

**Rules 5.3:** In Rule 5.3(a)(3), the term “exemption” was deleted in favor of the term “share,” which is consistent with the title and text references to “statutory share” or “intestate share” throughout the Rule. The Committee did not publish this proposed amendment for public comment as it is of a typographical or perfunctory nature.

**Rule 5.4:** The term “vacating” was deleted in the title and subparagraphs (a)(4) and (a)(8) of the Rule. It was replaced with the term “vacation,” which is grammatically consistent with other terms used in the Rule. The Committee did not publish this proposed amendment for public comment as it is of a typographical or perfunctory nature.

**Rule 7.1:** “Subpoenas to attend and testify” were added to similar items listed in the Rule, such as “depositions, discovery, production of documents, and perpetuation of testimony.”

**Rule 10.5:** The term “outright beneficiary” was deleted from Rule 10.5(a)(1) and replaced with “beneficiary.” Rule 10.5(a)(8) was amended to require written notice of estate administration to the beneficiaries of an estate or trust when there is a shared fiduciary.

**Forms:** The Index and Appendix of Orphans' Court and Register of Wills Forms was amended by eliminating the Estate Information Sheet, Form RW-01. The Estate Information Sheet, RW-01<sup>2</sup>, is not a Supreme Court form, but rather a form promulgated and updated by the Pennsylvania Department of Revenue. It was maintained with the Register of Wills Forms in the Appendix and on the UJS website for public convenience. Rather than continuing to update the form in response to changes by the Department of Revenue, the form is being removed from the Appendix and UJS website. A note has been added directing the public to the Department of Revenue website.

Finally, a number of the forms used before the orphans' courts and registers of wills have been rescinded and replaced to make the forms more useful to the public, bench, and bar. These changes include adding language to request a list of attachments, bolding titles, correcting typographical errors, updating online form completion functions, and revising notarial language. The revised forms are OC-01, OC-02, OC-03, OC-04, OC-05, RW-03, RW-04, RW-05, RW-06, RW-07, RW-08, RW-09, and RW-10.

---

<sup>2</sup> The current Estate Information Sheet is Department of Revenue form number REV-346 EX (11-15).