

RULE 1. JUDGES - LOCAL RULES

1.1 POWERS OF JUDGES

1.2 LOCAL RULES

Rule 1.2(1) Index of Proceedings.

(a) The Clerk of the Court shall assign to each new matter a file number, starting with No. 1 - O.C. at the beginning of each calendar year and consecutively thereafter. The file number and year and the name of the matter shall be included in the caption of all papers filed in the Clerk of Court's office, e.g. No. 1 - O.C. 199_ (see paragraph (e) of this Rule below).

(b) All papers shall be presented to the Clerk of the Orphans' Court Division for numbering, filing and docketing upon payment of filing fees.

(c) All papers shall be captioned:

COURT OF COMMON PLEAS OF MONROE COUNTY

FORTY-THIRD JUDICIAL DISTRICT

ORPHANS' COURT DIVISION

(d) All papers shall be typewritten and double spaced or printed and shall be endorsed with the name, attorney I.D. # and address of counsel and otherwise conform with the requirements of Pa. R.A.P. 124.

(e) Indexing shall, at the beginning of each calendar year, begin numbering with 1 and shall continue with the arithmetic progression of 1 until the end of the calendar year. The files shall be indexed with the proper denotation, i.e., O.C. for Orphans Court, O.C.A. for Orphans Court Adoption.

GROUP I

ORPHANS COURT (Purple Tab) (5 Digit Number)

(Example: No. 00001 - 1995 O.C.)

Estates of minors and incapacitated persons.

Estate claims.

"Guardianship Act" proceedings.

Trusts.

Waiver of three-day waiting period for marriage licenses.

Guardians of minors and incapacitated persons.

Miscellaneous such as sale of properties being held in trusts or estates not a part of estates opened in this county. (Any such miscellaneous item must also be cross indexed under the estate name.

Delayed birth records.

Delayed death records.

Marriage licenses.

GROUP II

ADOPTIONS AND TERMINATIONS OF PARENTAL RIGHTS.

(Gray Envelope) (3 Digit Number)

(Example: No. 001 - 1995 O.C.A.)

Rule 1.2(2) Sessions.

Sessions for hearing, argument and miscellaneous shall be determined by the Court. All applications, petitions and motions

shall be presented to the Motions Court or Miscellaneous Court on the dates scheduled on the Court Calendar.

Rule 1.2(3) Arguments.

(a) Argument shall be heard at the conclusion of the hearing, if briefs have been filed. Any party failing to file a brief shall be deemed to have waived argument, and such failure constitutes a default authorizing the Court to grant or deny the relief at issue, unless excused by the Court. All other arguments shall be heard as scheduled by the Court.

(b) Notice and Briefs

With respect to arguments other than those heard at the conclusion of a hearing, a party or their counsel obtaining the argument date shall give opposing parties or their counsel at least thirty (30) days notice of said argument date. Briefs shall be furnished to the Court and exchanged between parties or their counsel at least five (5) days prior to the argument. Failure to comply with this briefing schedule, unless excused by the Court, shall constitute a waiver of argument and authorize the Court to grant or deny the relief at issue. If any party fails to appear in person or by counsel at the argument, the case may proceed ex parte.

Rule 1.2(4) Attorneys.

(a) Appearance

(1) Every attorney participating in any proceeding shall enter his or her appearance by praecipe filed with the Clerk of

the Orphans' Court or by endorsement on papers filed, and shall not withdraw the same without leave of Court.

(2) Attorneys who are not admitted to practice before the Supreme Court of Pennsylvania shall not be permitted to enter an appearance or to file an account or any other paper in any matter, except as an associate of any attorney so admitted or so listed or by special leave of Court.

Admissions pro hac vice shall be upon motion of a member of the bar of the Supreme Court of Pennsylvania.

(b) The following officers shall not practice as an attorney before the Orphans' Court: the Clerk of the Orphans' Court or the Register of Wills.

Rule 1.2(5) Trusts Inter Vivos.

The rules of Court applicable to testamentary trusts shall apply to trusts inter vivos and Court directed trusts, such as constructive, executed, implied, involuntary, etc. as far as appropriate.

Rule 1.2(6) Sureties.

(a) Individual Sureties

Individuals proposed as sureties on bonds of fiduciaries shall make an affidavit on the printed form supplied by the Clerk, setting forth the facts required thereby. Such affidavit shall be filed together with the bond when that is filed for approval. No attorney of this or any other court nor employee of this Court shall act as surety in any proceeding in this Court, except by leave of Court.

(b) Corporate Sureties

Every surety company duly approved by the insurance commission of the Commonwealth of Pennsylvania and authorized to do business in Pennsylvania may become surety on any bond or obligation required to be filed in this Court; provided that a currently effective certificate issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, shall be on file with the Clerk of Court.

Rule 1.2(7) Corporate Fiduciaries. Approval. Security.

(a) In General

Corporations having fiduciary powers and authorized to do business in this Commonwealth may act as fiduciaries in matters pending in the Court; provided that, upon request of a party in interest, a current certificate evidencing the approval of the state banking department or a certified copy of the certificate from the Federal Reserve Board granting the right to exercise fiduciary powers shall be filed with the Clerk of Court.

(b) Security

Except when required by statute or by Court order for special cause shown, a bond will not be required of an authorized corporate fiduciary.

Rule 1.2(8) Miscellaneous Business.

All applications, petitions, motions, and other miscellaneous business must, except in emergencies, be filed with the Clerk of Orphans' Court.

Rule 1.2(9) Reproduction of Papers.

All pleadings and papers filed with either the Register of Wills or the Clerk of Court shall be legible. Should any such pleading or paper not be sufficiently legible for mechanical reproduction, the Register of Wills or the Clerk of Court may refuse to receive such pleading or paper or may require that the original thereof be submitted for mechanical reproduction.

Rule 1.2(10) Certification of Documents.

When any document submitted as evidence or exhibit to a pleading is submitted to the Court, it shall be certified by counsel to be the original or a true and correct copy thereof.

Rule 1.2(11) Fees from Appointments.

Masters, auditors, examiners, trustees in partition, guardians ad litem, or trustees ad litem appointed by the Court shall present a petition to the Court for approval of their fee.

Rule 1.2(12) Notices by the Clerk of the Orphans' Court.

Upon the filing of an adjudication, an order relating to an adjudication, or an opinion, the Clerk of Court shall send without charge one copy of the same to each attorney of record and any unrepresented party in interest who appeared and participated in the proceeding.

Rule 1.2(13) Settlement of Small Estates.

(a) Petitions for distribution of small estates under Probate, Estates and Fiduciaries Code, 20 Pa. C.S.A. §3102, shall set forth:

(1) the name, actual place of residence and mailing address of the petitioner and his relationship to the decedent;

(2) the name, date of death, and domicile of decedent, whether he died intestate or testate, the dates of the probate of the will and of the grant of letters, if any, and whether the personal representative has been required to give bond and in what amount;

(3) the names and relationships of all beneficiaries entitled to any part of the estate under the will or intestate laws, a brief description of their respective interests, whether any of them have received or retained any property of the decedent by payment of wages or similar items under Section 3101 of said Code, 20 Pa. C.S.A. §3101, or otherwise, and whether any of them are minors, incapacitated, or deceased, and if deceased, their next of kin and the names of their fiduciaries, if any;

(4) the person or persons, if any, entitled to the family exemption and, if a claim therefor is made in the petition, any additional facts necessary to establish the prima facie right thereto, as required by Pa. O.C.R. 12.1;

(5) an inventory of the real and personal estate of the decedent, with values ascribed to each item, either incorporated in the petition or attached as an exhibit;

(6) (a) a list showing the nature, amount, and preference of all unpaid claims against the estate and indicating which are admitted; (b) any claims over six (6)

months old for book accounts due to attorneys must be verified by the decedent during their lifetime.

(7) an averment showing the status of the inheritance tax;

(8) that ten days notice of intention to present the petition has been given to any unpaid beneficiary, heir, or claimant who has not joined in the petition or to the Attorney

General, if the decedent's heirs are unknown, in accordance with Pa. O.C.R. 5.1; and,

(9) a prayer for distribution of the personal property to those entitled and, in appropriate cases, for the discharge of the personal representative.

(b) There shall be attached to the petition the following exhibits:

(1) the original of the decedent's will, if it has not been probated, or a copy of the will, if it has been probated;

(2) joinders of unpaid beneficiaries, heirs, and claimants insofar as they are obtainable;

(3) if pertinent, an itemized list of risk disbursements made prior to the filing of the petition, indicating the payor and whether the disbursements were in payment of administration expenses, preferred or ordinary debts, items of distribution, or the family exemption;

(4) inheritance tax receipt, or copy of inheritance tax return, or statement from the Register of Wills showing the

status of the inheritance tax; and

(5) a copy of any notice given.

(c) No appraisal shall be required, unless ordered by the Court. This does not prohibit obtaining an appraisal when preserving evidence of value is justified.