

RULE 3. PLEADING AND PRACTICE

3.1 CONFORMITY TO EQUITY PRACTICE IN GENERAL

3.2 PETITION, ANSWER AND REPLY

Rule 3.2(1) Pleadings.

The pleadings in matters before the Orphans' Court shall be limited to a petition, an answer, a reply, and preliminary objections and an answer to preliminary objections.

Rule 3.2(2) Judgment on the Pleadings.

Any party in an appropriate case may seek judgment on the pleadings.

Rule 3.2(3) Joinder of Issue.

No formal joinder of issue is required.

(a) Issue of Fact

When an issue of fact is raised by the pleadings, any party in interest may praecipe the matter for hearing. The Court may refer the matter to a master.

(b) Issues of Law

When the pleadings are closed, any party in interest may praecipe the matter for argument. Averments of fact in the pleading to which preliminary objections raising questions of law have been filed shall be deemed admitted for the purpose of argument.

3.3 AVERMENT OF INCAPACITY

3.4 FORM OF PETITION. EXHIBITS. CONSENTS.

Rule 3.4(1) Form. Additional Requirements.

(a) Typing and Endorsement

Every petition, answer, reply, motion, or other writing shall be typewritten and double-spaced or printed and shall be endorsed with the name, attorney I.D. Number and address of counsel and otherwise conform with the requirements of Pa. R.A.P. 124.

Notices of and petitions to adjudicate a person incapacitated shall conform to the requirements of Monroe Co. O.C.R. 14.2(2).

(b) Identification of Signatures

The name of each person signing any petition, pleading, or document, to be filed with the Court, shall be printed or typewritten beneath the signature.

(c) Signature and Verification

All pleadings shall be signed in accordance with Pa. R.C.P. 1023 and shall contain a verification as required by Pa. R.C.P. 1024 or in 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

(d) Consents

The affidavit to the petition shall recite that all necessary consents are attached or shall set forth the names and addresses of the persons who do not consent. The Court may direct that a citation be issued, directed to persons who do not consent, to show cause why the prayer of the petition should not be granted.

(e) Decree

The proposed decree or order shall have a caption and be attached to the face of the petition.

3.5 MODE OF PROCEEDING ON PETITION

Rule 3.5(1) Service of Pleadings.

(a) A copy of every pleading filed in a case shall be promptly served by the moving party upon counsel of record or a party without counsel for all parties in interest.

(b) Copies of exceptions or written Objections shall be promptly served upon the accountant, or his/her counsel, Court appointed auditor, and upon all parties adversely affected thereby or their counsel of record.

**3.6 DEPOSITIONS, DISCOVERY, PRODUCTION OF DOCUMENTS
AND PERPETUATION OF TESTIMONY**

Rule 3.6(1) Conformity to Court of Common Pleas.

To the extent not provided for by special order in a particular case, the practice relating to depositions, discovery, production of documents, perpetuation of testimony, and perpetuation of Court records shall conform to the civil procedure practice in the Court of Common Pleas.

Rule 3.6(2) Pre-trial Conference.

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

- (1) the simplification of the issues;
- (2) the necessity or desirability of pleadings and/or amendments thereto;
- (3) the possibility of obtaining admissions of fact and regarding documents which will avoid unnecessary proof;

- (4) the limitation of the number of expert witnesses;
- (5) the advisability of a preliminary reference of issues to a master for findings to be used as evidence; and
- (6) such other matters as may aid in the disposition of the action.

(b) The Court may make an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and limiting the issues for trial to those not disposed of by admissions or agreements of the attorneys. Such order when entered shall control the subsequent course of the action, unless modified at the trial to prevent manifest injustice.