

Rules of the
Orphans' Court Division
of the
Court of Common Pleas of Allegheny County

JEFFREY A. MANNING, President Judge
LAWRENCE J. O'TOOLE, Administrative Judge

ADOPTED JUNE 9, 2016
EFFECTIVE SEPTEMBER 1, 2016
AS LAST AMENDED DECEMBER 6, 2000

Foreword

This substantial revision of the local rules for practice in the Orphans' Court Division is the first since 2000. This version is in response to a substantially revised and more comprehensive set of Supreme Court Orphans' Court Rules, approved by the Supreme Court on December 1, 2015, to be effective September 1, 2016. This revision is the product of a committee of the Allegheny County Bar Association, consisting of John F. Meck, Esquire, Chair, Charles J. Avalli, Esquire, Thomas J. Dempsey, Jr., Esquire, Lisa M. Dougan, Esquire, Aubrey H. Glover, Esquire, Todd T. Jordan, Esquire and Paul W. Stefano, Esquire. The new rules, together with the Supreme Court Orphans' Court Rules are intended to be a comprehensive guide for practice in this division.

LAWRENCE J. O'TOOLE, Administrative Judge
KATHLEEN A. DURKIN, Judge
FRANK J. LUCCHINO, Senior Judge
JOHN A. ZOTTOLA, Judge

ALLEGHENY COUNTY ORPHANS' COURT DIVISION RULES

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Explanatory Comment: Explanatory Comments are not part of the Rules, but may be used in construing the Rules. See Explanatory Comment to Pa. O.C. Rule 1.2.
All prior administrative orders and notices are null and void. “Register of Wills” or “Register” is defined in Pa. O.C. Rule 1.3 to mean “the Register of Wills or its equivalent” so as to include the Department of Court Records-Wills/Orphans’ Court Division in Allegheny County.

CHAPTER I. PRELIMINARY RULES

ORPHANS' COURT DIVISION RULE 1.1

RULE 1.1 SHORT TITLE AND CITATION

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

Explanatory Comment: These Rules shall be read in conjunction with the Pennsylvania Orphans' Court Rules as adopted by the Supreme Court.

ORPHANS' COURT DIVISION RULE 1.7

RULE 1.7 ENTRY AND WITHDRAWAL OF COUNSEL; AGREEMENTS

Sec. 1. Appearance.

Every attorney presenting any paper to the court or to the clerk shall include on the cover sheet the attorney's name, law firm, office address, and telephone number in Pennsylvania and the attorney's identification number issued by the court Administrator of Pennsylvania. Each such endorsement shall constitute an appearance. An appearance may also be entered by praecipe.

Sec. 2. Withdrawal of Attorney Appearance.

Leave to withdraw an appearance where there is no co-counsel who will continue representing the party or where there is not simultaneous entry of appearance by other counsel will not be granted unless, after consideration of all relevant factors, the court determines that the withdrawal will not unduly prejudice any party or unduly delay the litigation.

Sec. 3. Agreements.

No agreements between attorneys (and/or *pro se* litigants) to vary procedure will be considered valid or binding unless made in writing or of record in open court.

Explanatory Comment: Common examples of such an agreement are waiving the 10 day notice of presentation required by Section 1(c) of Rule 3.1 or an agreement with respect to discovery.

ORPHANS' COURT DIVISION RULE 1.8

RULE 1.8 FORMS; COVER SHEET

Every legal paper filed with the court shall contain a cover sheet in the following form:

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA	
IN RE: Estate, Trust, Minor, etc.	ORPHAN'S COURT DIVISION
	No.
	NAME OF PLEADING
	Filed on Behalf of:
	Counsel of Record:
	Attorney's Name PA I.D. No.
	Attorney's firm, if any Firm I.D.
	Address Phone number Email (optional)

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

ORPHANS' COURT DIVISION RULE 2.1

RULE 2.1 FORM OF ACCOUNT

Sec. 1. Form.

Accounts of all fiduciaries presented for confirmation and audit, whether joint or separate, shall be prepared in any form approved by the Supreme Court or in the forms A to E of this Rule and shall be designated by consecutive numbers starting with First and shall be further designated as Interim or Final. An Account which is not in a form consistent with these Rules shall not be confirmed nisi and shall not be scheduled for audit.

Accounts filed after confirmation nisi of an Account shall be designated Supplemental. No Account will be confirmed absolute before the disposition of all previously filed unaudited and unconfirmed Accounts unless the Account includes all matters embraced in such prior Accounts.

Sec. 2. Copy of Inventory.

Accounts filed by executors, administrators, and guardians under this Rule shall have attached thereto a copy of the inventory (and any supplemental inventory) certified by counsel to be a true and correct copy of the inventory filed.

Sec. 3. Request for Distribution.

There shall be a request for distribution signed by the accountant at the end of the Account requesting that adjudication be determined by the court in accordance with the petition for adjudication.

ORPHANS' COURT DIVISION RULE 2.4

RULE 2.4 PETITION FOR ADJUDICATION; SUPPLEMENTS/ADDITIONS

Sec. 1. Petition.

The petition for adjudication shall be prima facie evidence of the allegations therein and, unless objected to by an interested party or by the court, or changed or altered by the evidence offered at the audit or subsequently with leave of court, shall be conclusive for the entry of a decree of confirmation and distribution.

Sec. 2. Supplements.

Receipts or disbursements received or made after filing the Account and petition for adjudication may be accounted for in a supplemental account, which shall be signed and verified by the accountant and filed with the clerk, with notice in the same manner as required by Pa. O.C. Rule 2.5(a) to (g) with respect to an Account.

Explanatory Comment: Prior local practice was to include in or attach to the petition for Adjudication any supplemental accounting of transactions after the period covered by the Account. The petition for Adjudication must now be filed at the same time as the Account, pursuant to Pa. O.C. Rule 2.4(a). Under Section 2 of Rule 2.4, any supplemental accounting will have to be filed separately, at least 20 days in advance of the audit hearing, with notice in the same manner as for the Account.

Sec. 3. Additional Assets.

If additional assets are discovered after audit and confirmation absolute of an account, then a signed and verified petition for the distribution of the after-discovered assets may be filed without an inventory or a formal accounting, provided that it appears in such petition that any inheritance or estate tax due on account thereof has been paid, that there are no known unpaid creditors of the estate and provided that the appropriate notice of presentation has been given. Notice shall be given in the same manner as required by Pa. O.C. Rule 2.5(a) to (g) with respect to an Account.

Sec. 4. Minor's Estate.

In addition to the matters required by Sec. 1 above, the petition submitted by a guardian of the estate of a person who is still a minor shall set forth the name, address and relationship of the person who assisted the minor in the examination of the account. For any petition for distribution which is filed because a minor has reached the age of majority, the petitioner shall attach a certified copy of the minor's birth record, or such other evidence of age as the court shall require.

ORPHANS' COURT DIVISION RULE 2.5

RULE 2.5 NOTICE OF ACCOUNT FILING

Notice shall be given to each co-fiduciary who does not join in the statement of the account, and proof thereof shall be attached to the petition for adjudication.

ORPHANS' COURT DIVISION RULE 2.6

RULE 2.6 FILING WITH THE CLERK; AUDITS

Sec. 1 Filing with the Clerk.

The following Accounts may be filed before four months have elapsed from the date of the first complete advertisement of the grant of letters:

- (a) An Account of an administrator pendente lite;
- (b) An Account filed pursuant to Sec. 3531 of the PEF Code, dealing with small estates;
- (c) An Account directed to be filed by the court.

Sec. 2. Attendance at Audits.

An accountant is not required to attend the audit if the petition for adjudication has been verified by the accountant. Claimants, objectants and all other interested parties, either personally or through their counsel, shall attend audits at the time fixed therefor to address their claims, objections or other positions.

Sec. 3. Continuance.

Unless otherwise ordered by the court, if a case on an audit list is continued, it shall be placed upon the next audit list by the clerk.

Sec. 4. Audit; Confirmation; Distribution; Suspension.

- (a) Accounts confirmed nisi and any supplements thereto offered at the audit will be examined and audited by the court. After audit, the accounts will be confirmed absolutely as stated or as modified and re-stated in accordance with evidence presented at audit or at a subsequent hearing, and balances for distribution decreed to the parties or suspended as circumstances may require.
- (b) A decree of distribution may suspend distribution of any part of any fiduciary estate. In order to lift such a suspension, a petition for that purpose must be filed and a copy shall be delivered to the Motions Coordinator at least one day in advance of presentation, setting forth all receipts and disbursements since the entry of that decree. A proposed decree of distribution shall be attached to the petition.

Sec. 5. Receipts for Distributions.

Receipts for distribution, if obtained, may be filed with the clerk.

Sec. 6. Schedules of Distribution.

Schedules of Distribution shall not be used.

Explanatory Comment: Schedules of Distribution are currently utilized in Philadelphia and surrounding counties following the entry of a Decree of Distribution. Two questions on the Petitions of Adjudication (Forms OC-01 to OC-04 of the Pa. O.C. Rules) ask:

Is the court being asked to direct the filing of a Schedule of Distribution?

As to real estate only?

In Allegheny County those questions should be answered no. Allegheny County will still use a Schedule B for awarding real estate per Sec. 2 of Rule 2.9.

ORPHANS' COURT DIVISION RULE 2.7

RULE 2.7 OBJECTIONS TO ACCOUNTS

In addition to written objections, an oral motion may be made at audit for a continuance to file written objections.

ORPHANS' COURT DIVISION RULE 2.9

RULE 2.9 CONFIRMATION OF ACCOUNTS; AWARDS

Sec. 1. Confirmation Nisi; Audit List.

All accounts filed with the clerk will be confirmed nisi not less than thirty days after the time of filing. An audit list will be made up of all accounts confirmed nisi. The audit list will be called beginning on the second Monday following confirmation nisi, and shall continue thereafter each day until all of the accounts have been audited.

Sec. 2. Distribution in Kind Under 20 Pa.C.S. Secs. 3534 and 3536.

(a) In every estate in which real estate remains for distribution, the decree of distribution shall consist of two schedules:

Schedule A - Distribution of personalty.

Schedule B - Distribution of real estate.

Schedule B shall contain a legal description and shall be submitted to the court at the audit of the account.

(b) If the heirs, devisees, or legatees elect in writing to take real estate not specifically devised, then it shall be allotted and decreed to them in accordance with their written election or agreement.

(c) If the heirs, devisees, or legatees do not elect in writing to take unconverted real estate in kind, or if they are unable to agree as to the division thereof, any interested party, including the personal representative of the estate, by petition presented at or prior to the audit of the account, may request the court to divide, partition, and allot the real estate. When so requested by petition to divide, partition, and allot unconverted real estate, the court shall fix a procedure for the disposition of such petition.

ORPHANS' COURT DIVISION RULE 2.12

RULE 2.12 SMALL ESTATES PETITIONS

Any petition for settlement of a small estate as authorized by 20 Pa. C.S. § 3102 shall set forth the following:

Sec. 1. Personalty Only.

When the estate of the decedent consists of personalty only, the petition shall set forth the following:

- (a) The name, date of death and domicile of the decedent; whether the decedent died testate or intestate; if testate, whether the will was probated; whether letters have been granted, and if so, on what date and to whom;
- (b) The items of personal property owned by decedent and their values at the date of death;
- (c) The names of all beneficiaries under the will, if any, as well as the names of decedent's next of kin if not named as beneficiaries under the will;
- (d) The names of the surviving spouse and next of kin if decedent died intestate as to any personalty;
- (e) The names of any persons entitled to distribution who are not sui juris, with the names of their trustees or guardians and a reference to their appointment;
- (f) When a family exemption is claimed:
 - (1) by whom the exemption is claimed;
 - (2) the name of the surviving spouse, if any, whether the family relationship was maintained, and whether the spouse has forfeited his or her rights;
 - (3) if children of the decedent are claiming the exemption, then the names of all children and whether such children were members of the same household as the decedent at death, indicating any who are not sui juris, or if there are no such children, the names of the parent or parents of the decedent who were members of the same household as decedent at death;
 - (4) a description of the property claimed and the gross value thereof;
 - (5) whether there is any objection to the claim, and if so, by whom;

- (g) An itemized list of unpaid administrative expenses, preferred debts, and taxes, including those due to the Commonwealth;
- (h) An itemized list of all claims and whether or not admitted;
- (i) The names of all next of kin and legatees under the will, if any, not joining in the petition.

Exhibits shall be attached in the following order:

- (1) A copy of the will, if any;
- (2) The joinder of all next of kin, legatees, creditors, sureties on any administrator's bond, and any interested party in the decedent's estate, who consent to the granting of the petition;
- (3) A receipt or statement from the agent of the Commonwealth showing that the Pennsylvania inheritance tax has been paid in full, or such agent's consent to the granting of the petition; and
- (4) An itemized list of all disbursements made prior to filing the petition, specifying the date, amount, payee and purpose of each disbursement.

Sec. 2. Realty.

When the estate of the decedent consists of personalty and realty or realty only, then in addition to the information required by Section 1 of this Rule, the petition shall set forth the following:

- (a) The date of the first complete advertisement of the letters, and the amount of bond, if any; and
- (b) The names of all devisees under the will, if any.

In addition to the exhibits required by Section 1 of this Rule, the petitioner shall attach proof of advertising as an exhibit to the petition.

CHAPTER III. PETITION PRACTICE AND PLEADING

ORPHANS' COURT DIVISION RULE 3.1

RULE 3.1 PETITIONS GENERALLY; PARTIES IN MILITARY SERVICE

Sec. 1. Petitions; Motions.

- (a) All petitions and motions must first be filed with the clerk. Motions (and consent petitions under Section 1(e)) must then be presented at 9:30 a.m. or at such other time as may be fixed by Order of court.
- (b) Ten (10) days' notice of presentation of any motion is required absent an emergency or consent by the opposing party to a shorter notice of presentation.
- (c) All motions shall include a notice of presentation and certificate of service.
- (d) If the sole relief requested by a petition is the issuance of a citation or rule, a notice to plead pursuant to Pa. O.C. Rule 3.5(b)(1) is not required.
- (e) Where a party can satisfy Pa. O.C. Rule 3.5(c) (Consents/Statements of No Objection; Joinders), then neither a citation nor rule is required. In such a case, the petition shall be presented in the same manner as a motion, and compliance with Sections 1(b) and (c) of this Rule is not required.
- (f) A copy of all motions (and consent petitions under Section 1(e)) shall be delivered to the Motions Coordinator at least one business day in advance of presentation.
- (g) Where a judge has been actively involved in the matter which is the subject of a motion or a consent petition under Section 1(e) of this Rule, counsel shall present the motion or consent petition to such judge.

Sec. 2. Costs.

Except for cause shown, no order shall be docketed until all filing costs have been paid.

Explanatory Comment: Section 2 reflects current practice. The Rule has been clarified to provide that no order shall be docketed until all filing costs have been paid. No citation, rule or certificate can be issued until the predicate order has been docketed.

Sec. 3 Parties in Military Service.

When any interested party in any proceeding in this court is in the military service of the United States, the procedure shall conform to the provisions of the Servicemembers Civil Relief Act, as amended, 50 U.S.C.A. 3901 et seq.

ORPHANS' COURT DIVISION RULE 3.5

RULE 3.5 **MODE OF PROCEEDING ON PETITION; RETURN DATE; PRELIMINARY ORDERS**

Sec. 1. Petition for Citation.

(a) A petition requesting the issuance of a citation to a party who is not yet subject to the personal jurisdiction of the court shall be prepared in the manner prescribed by Pa. O.C. Rules 3.3 and 3.4 and filed in the manner set forth in Rule 3.1.

Explanatory Comment: The court may *sua sponte* correct a request for issuance of a citation and order the issuance of a rule if the court already has personal jurisdiction over a respondent.

(b) The preliminary order directing the issuance of a citation shall be in the form set forth in Sec. 4(a) of this Rule.

(c) Upon entry of a preliminary order directing the issuance of a citation, the following procedure shall be followed:

(i) The clerk shall prepare a citation.

(ii) The petitioner is required to pick up the citation from the clerk.

(iii) The petitioner shall serve the petition and citation in a manner consistent with Pa. O.C. Rule 3.5(a)(2) and Pa. O.C. Rule 4.2.

(iv) If a response is not filed on or before the return date set forth in the citation, all averments of fact in the petition shall be deemed admitted and the court may enter an order granting the relief requested by the petition.

(v) If an answer is timely filed and there are no disputed issues of material facts, the court may decide the petition based on the petition and answer.

Sec. 2. Petition for Rule.

(a) A petition requesting the issuance of a rule to a party who is already subject to the personal jurisdiction of the court shall be prepared in the form prescribed by Pa. O.C. Rules 3.3 and 3.4 and filed in the manner set forth in Rule 3.1.

Explanatory Comment: The court may direct the issuance of a rule if the court believes that a notice petition under Pa. O.C. Rule 3.5(b) is not appropriate.

(b) The preliminary order directing the issuance of a rule shall be in the form set forth in Sec. 4(b) of this Rule.

(c) Upon entry of a preliminary order directing the issuance of a rule, the following procedure shall be followed:

(i) The clerk shall prepare a rule.

(ii) The petitioner is required to pick up the rule from the clerk.

(iii) The petitioner shall serve the petition and rule in a manner consistent with Pa. O.C. Rule 4.3

(iv) If a response is not filed on or before the return date set forth in the rule, all averments of fact in the petition shall be deemed admitted and the court may enter an order granting the relief requested by the petition.

(v) If an answer is timely filed and there are no disputed issues of material facts, the court may decide the petition based on the petition and answer.

Sec. 3. Return Date.

(a) The return date for a citation under Rule 3.5, Sec. 1 or a rule under Rule 3.5, Sec. 2 shall be the date set by the court in the preliminary order. Any response due on the return date shall be considered timely filed if it is filed with the clerk on or before the close of business on the return date or on or before any applicable electronic filing deadline for that date.

Sec. 4. Form of Orders Issuing Citation and Rule.

(a) Preliminary Order directing the issuance of a Citation

PRELIMINARY ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing Petition, it is hereby ORDERED that a Citation shall be issued to respondent(s), _____, to show cause why the Petitioner is not entitled to the following relief [specify the relief requested in the Petition]: _____

The Respondent(s) shall file a response to the Petition on or before _____, 20____.

A conference shall be held on _____, 20____ at _____ .m. prevailing time in courtroom _____, 437 Grant Street, 17th Floor, Pittsburgh, Pennsylvania.

The issue(s) raised by the Petition and any response thereto may be disposed of by the court at the conference or the court may set a schedule for such further proceedings as may be necessary.

(b) Preliminary Order directing the issuance of a Rule

PRELIMINARY ORDER

AND NOW, this _____ day of _____, 20____, upon consideration of the foregoing Petition, it is hereby ORDERED that a Rule shall be issued to respondent(s) _____ to show cause why the Petitioner is not entitled to the following relief [specify the relief requested in the Petition]:

The Respondent(s) shall file a response to the Petition on or before _____, 20____.

A conference shall be held on _____, 20____ at _____ .m. prevailing time in courtroom _____, 437 Grant Street, 17th Floor, Pittsburgh, Pennsylvania.

The issue(s) raised by the Petition any response thereto may be disposed of by the court at the conference or the court may set a schedule for such further proceedings as may be necessary.

CHAPTER V. GOVERNING SPECIFIC TYPES OF PETITIONS

ORPHANS' COURT DIVISION RULE 5.8

RULE 5.8 DISCHARGE OF FIDUCIARY AND SURETY; RESIGNATION

When a fiduciary has not completed the administration of the estate, the fiduciary's petition for leave to resign and be discharged shall set forth:

- (a) The nature of the fiduciary capacity;
- (b) The date and a reference to the record of the fiduciary's appointment and the names of the fiduciary's sureties, if any;
- (c) The kind and value of property remaining in the estate;
- (d) Whether an Account has been or will be filed; and
- (e) The reason for the fiduciary's resignation.

The prayer shall be (i) for the acceptance of the resignation and an order directing payment and transfer of the remainder of the property in the fiduciary's hands to the fiduciary's successor; and (ii) for the discharge of the fiduciary and the fiduciary's sureties, if any, upon confirmation of the fiduciary's account.

The court, with or without notice to the parties and with or without a hearing, may accept the fiduciary's resignation and direct the fiduciary to make payment and transfer of the assets of the estate to the fiduciary's successor and may require the fiduciary to state and file an account.

The proposed successor fiduciary and the representatives of persons not sui juris, if appointed, and any other interested party, may examine the assets of the estate and any Account filed, and, when necessary, file objections. Upon consideration thereof and after audit and confirmation of the account, if filed, and proof that all taxes assessed have been paid or that provision has been made for their payment, the court will decree a discharge of the accounting fiduciary and the fiduciary's sureties, if any, upon payment and transfer of the assets remaining in the hands of the fiduciary to the fiduciary's successor or as otherwise directed by the court.

ORPHANS' COURT DIVISION RULE 5.10

RULE 5.10 PUBLIC SALE OF REAL PROPERTY

In addition to the requirements of Pa. O.C. Rule 5.10, any petition for the public sale of real property shall set forth the following:

Sec. 1. Real Property.

- (a) the name, residence and date of death of the decedent; whether the decedent died testate or intestate; the name and date of appointment of the personal representative; and the amount of bond given by the personal representative, if any;

- (b) a description adequate to describe the real property involved, with the improvements thereon, how acquired by the decedent or trust, its rental income or value, its value shown by the inventory, and, if the Pennsylvania transfer inheritance tax appraisalment has been filed, its value as shown therein;

- (c) the names of all interested parties as heirs, devisees, legatees, or lienholders who will be affected by the granting of the petition, the interest of each, an indication of whether any of such are not sui juris, together with the names of their fiduciaries, if any;

- (d) the names of the interested parties consenting to the transaction;

- (e) the reasons why the sale or other requested disposition of the real property is desirable for the proper administration and distribution of the estate or trust; and

- (f) the mortgages, if any, to be discharged by sale with the consent of the mortgagees if they are not to be paid in full.

Sec. 2. Exhibits.

Exhibits to such petitions shall be attached in the following order:

- (a) a copy of the will, if any, or the trust;

- (b) a printout showing the current assessed value of the real property;

- (c) the joinder of parties who consent to the transaction; and

- (d) a copy of the inventory;

Sec. 3. Notice.

If the property is located in Allegheny County, then public notice of a proposed public sale shall be given by advertisement once a week for three successive weeks in the daily editions of the Pittsburgh Legal Journal and in one newspaper of general circulation published in Allegheny County. If the property is not located in Allegheny County, then such public notice shall be given in the legal periodical, if any, of that county and in one newspaper of general circulation published in such county. In either case, public notice shall include the posting of at least five notices of the proposed sale, exchange or option on and in the immediate vicinity of the premises to be sold.

Sec. 4. Bid Process.

On or before the return day of a public sale, the proofs of publication and of posting of notice shall be filed. On such return day, the court will then open the sales to competitive sealed bidding or may permit competitive oral bidding in an open court or the court may refer the matter to the clerk and fix the time and place during the same day when the clerk will offer the property at auction and make immediate return thereto to the court. The successful bidder shall forthwith deposit cash or its equivalent with the personal representative in a sum not less than ten percent of the amount of the bid; the balance shall be paid as directed by the court.

Sec. 5. Additional Security.

On or after the return day of a sale or other transaction hereunder, the court shall fix the amount of the security or additional security which the personal representative shall be required to enter. If, however, the facts warrant and a stipulation is entered by the surety on any existing security accepting liability for the proceeds of the sale or other transaction, the court may excuse the personal representative from entering security or additional security. The surety on any additional bond, except for cause shown, shall be the same as on the original bond. The bond shall be presented to the court for approval.

Sec. 6. Similar Petitions.

Petitions of guardians under Secs. 5152 and 5155 of the PEF Code, and petitions of guardians under Secs. 5521 and 5522 of the PEF Code, shall conform so far as possible to the provisions of this rule.

Sec. 7. Personal Property.

When a sale of personal property requires the approval of the court, then the petition for such approval shall conform so far as possible to the provisions of this rule.

ORPHANS' COURT DIVISION RULE 5.11

RULE 5.11. PRIVATE SALE OF REAL PROPERTY OR OPTIONS THEREFOR

In addition to the requirements of P.A. O.C. Rule 5.11, the requirements of local Rule 5.10 sections 1 and 2 shall be included on the petition for a private sale of real property or options therefor.

The court may require additional security in accordance with local Rule 5.10 Section 5.

ORPHANS' COURT DIVISION RULE 5.12

RULE 5.12. MORTGAGE OR LEASE OF REAL PROPERTY

In addition to the requirements of Pa. O.C. Rule 5.12, the requirements of local Rule 5.10 sections 1 and 2 shall be included in the petition and a copy of the proposed mortgage or lease shall be attached as an exhibit.

ORPHANS' COURT DIVISION RULE 5.16

RULE 5.16 SALE OF REAL ESTATE; ADDITIONAL SECURITY OR WAIVER THEREOF

Sec. 1. Additional Security.

In the case of a personal representative who has been required to give bond, the petition for an order requiring additional security or excusing such personal representative from entering additional security under 20 Pa. C.S. § 3351, shall set forth the following:

- (a) the name, residence, and date of death of decedent; whether the decedent died testate or intestate; the name of the personal representative and the date of appointment;
- (b) the amount of the bond filed with the Register and the name of the surety thereon;
- (c) a description adequate to identify the real estate to be sold and the improvements thereon;
- (d) the name and address of the purchaser and the price to be paid;
- (e) the names of all interested parties and whether or not they are sui juris.

When an order excusing the entry of additional security is requested, or when security previously entered is to be used to secure in whole or in part the proceeds of the sale referred to in the petition, there shall be attached to the petition a stipulation signed by the surety on the existing bond accepting liability for the proceeds of the real estate to be sold.

Sec. 2. Exhibits.

Exhibits to such petitions shall be attached in the following order:

- (a) a copy of the will, if any;
- (b) a copy of the inventory, if filed;
- (c) a copy of the agreement of sale; and
- (d) consents, if any, of the interested parties.

Sec. 3. Surety.

Except for cause shown, the surety on the bond of the personal representative at the time of appointment shall be surety on any additional bond.

Sec. 4. Form of Additional Bond When Required.

When an additional bond is required, or a personal representative is excused from entering additional security, an order of court in substantially the following form shall be annexed to the petition:

And now, this _____ day of _____, 20____, upon consideration of the annexed petition and on motion of _____, it is ordered, adjudged, and decreed that _____, of the estate of _____

(Personal Representative)

_____, deceased, enter in the office of the Register of Wills additional security in the amount of \$ _____, with _____ as surety and, upon the entry of the same, the said _____, is authorized

(Personal Representative)

to receive the proceeds of the sale of the real estate known as _____, Pennsylvania as the same is more fully

(Number, Street and Municipality)
described in the petition.

ORPHANS' COURT DIVISION RULE 5.17

RULE 5.17 COMPROMISE OR SETTLEMENT OF WRONGFUL DEATH OR SURVIVAL ACTIONS

Sec. 1. Petitions.

Whenever a personal representative, who has a right of action to recover damages under the Survival Statutes and who has not brought suit, wishes to compromise or settle such a claim, whether or not any claim has been made for damages under the Wrongful Death Statute, the personal representative shall present his petition to the Orphans' Court Division for approval of the compromise or settlement. The petition shall contain the following averments:

- (a) the name, age, state of health, residence and date of death of the decedent and whether the decedent died testate or intestate;

- (b) the name of the personal representative, the date of the personal representative's appointment, that letters were granted and duly advertised, and the amount of bond, if any;

- (c) the occupation of the decedent at the time of the decedent's death, the salary and average earnings, the name of the decedent's employer and address if the decedent was not self-employed;

- (d) the names of all heirs or next of kin (noting those dependent upon the decedent) and whether they are sui juris, together with the names of their guardians, if any;

- (e) the names and addresses of all creditors who have or had claims against the estate, whether or not they have been paid, and, if paid, by whom;

- (f) a brief recital of the facts constituting the cause of action;

- (g) a statement of reason for the proposed compromise or settlement, the amount thereof, including the amount of counsel fees and legal expenses, and the proposed apportionment between the survival action and the wrongful death action, if any; and

- (h) a reference to an attached exhibit which shall contain a statement of counsel's professional opinion regarding the desirability of the settlement and reasons therefor, including a discussion with specific references to the factual circumstances as to both the liability and damages aspects of the case; a description of the services rendered; a description and the amount of reimbursable expenses requested, and the amount of fees requested, which for a minor or incapacitated person, except in extraordinary circumstances, shall not exceed 33-1/3% of the present value of a structured settlement or 33-1/3% of the gross recovery of any other settlement; and

- (i) that notice of the presentation of the petition has been given to all interested parties who do not join.

The prayer of the petition shall be for approval of the compromise or settlement.

Sec. 2. Exhibits.

The following exhibits shall be attached to the petition:

- (a) a copy of the will, if any;
- (b) an affidavit of service of notice;
- (c) the joinder of all parties who consent; and
- (d) the exhibit described in Section 1(h) of this Rule.

Sec. 3. Hearing.

When the averments of the petition require it, the court upon its own motion or upon the request of any interested parties, will set a date for hearing.

Sec. 4. Distribution.

Distribution of the amount received in compromise or settlement of a wrongful death action shall be made in accordance with 42 Pa. C.S. § 8301. Distribution of the amount received in compromise or settlement of a survival action shall be made in accordance with the will of the decedent or pursuant to the intestacy statute.

Sec. 5. Settlement of Action Filed.

For approval of incapacitated person's claim where any action has been instituted, *see* Allegheny County Civil and Family Division Rule 2206.

ORPHANS' COURT DIVISION RULE 5.18

RULE 5.18 PETITION TO SETTLE CLAIMS FOR MINORS

Sec. 1. Contents of Petition.

Where no action has been instituted, a petition by a guardian of a minor (as the term "guardian" is defined under Pa. R.C.P. 2026) for authority to settle a claim for damages proposed to be paid to the estate of a minor shall be verified by the guardian of the minor, shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall also state whether a surety bond was previously filed by the guardian and the amount thereof. The petition shall be accompanied by the following exhibits:

- (a) A statement by counsel as to such counsel's professional opinion regarding the desirability of the settlement and reasons therefor, a description of the services rendered, a description and the amount of reimbursable expenses requested, and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3 percent of the present value of a structured settlement or 33-1/3 percent of the gross recovery of any other settlement;

- (b) A statement by the attending physician as to the injuries sustained by the minor, treatment administered and the prognosis; and

- (c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

Sec. 2. Deposit of Funds by Order of Court.

All petitions under this Rule where the proceeds of settlement are to be deposited in a savings Account or in a certificate of deposit, shall have attached to the petition an order including the following:

It is hereby ordered and decreed that the amount of \$ _____ shall be deposited in the name of _____, a minor, by counsel of record in a savings account or certificate of deposit in a federally insured bank, savings and loan association or credit union. The savings account or certificate of deposit shall be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF MAJORITY OR BY FURTHER ORDER OF COURT."

Sec. 3. Annuity Contracts

Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this court.

Sec. 4. Settlement of Filed Action.

For approval of a minor's claim where an action has been instituted, see Allegheny County Civil and Family Division Rule 2039.

ORPHANS' COURT DIVISION RULE 5.19

RULE 5.19 PETITION TO SETTLE CLAIMS FOR INCAPACITATED PERSONS

Sec. 1. Contents of Petition.

Where no action has been instituted, a petition by the guardian of the estate of an incapacitated person for authority to settle a claim for damages proposed to be paid to the estate of an incapacitated person shall be verified by the guardian of the estate of the incapacitated person, shall contain a statement of the nature of the evidence relied upon to show liability, the elements of damage, the injuries sustained, and the list of expenses incurred or to be incurred. The petition shall also state whether surety bond was previously filed by the Guardian and the amount thereof. The petition shall be accompanied by the following exhibits:

- (a) A statement by counsel as to such counsel's professional opinion regarding the desirability of the settlement and reasons therefor, a description of the services rendered, a description and the amount of reimbursable expenses requested, and the amount of fees requested, which, except in extraordinary circumstances, shall not exceed 33-1/3 percent of the present value of a structured settlement or 33-1/3 percent of the gross recovery of any other settlement;
- (b) A statement by the attending physician as to the injuries sustained by the incapacitated person, treatment administered and the prognosis; and
- (c) In property damage claims, a statement by the party who made the repairs or appraised the loss.

Sec. 2. Annuity Contracts.

- (a) Where the terms of settlement of an incapacitated person's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company without the prior approval of the Orphans' Court Division of this court.
- (b) A copy of this local rule shall be served upon the company issuing the annuity contract and proof of service thereof shall be filed with the Department of court Records, Wills/Orphans' Court Division.

Sec. 3. Settlement of Filed Action.

For approval of an incapacitated person's claim where an action has been instituted, see Allegheny County Civil and Family Division Rule 2064.

ORPHANS' COURT DIVISION RULE 5.20

RULE 5.20 MINORS; ALLOWANCES FOR SUPPORT AND EDUCATION

A petition for allowance pursuant to 20 Pa.C.S. Section 5164 shall set forth:

- (a) the name, address and age of the minor, the person with whom the minor resides, and the date of appointment and qualification of the minor's guardian;
- (b) the names and addresses of the minor's living parents, their incomes and whether their incomes are sufficient to support and maintain their children;
- (c) the present net value and kind of the minor's estate, whether real or personal, the net income therefrom during the six months preceding the petition, and any other information respecting principal and income which may be of advantage to the court in fixing the amount to be authorized for the specific purpose;
- (d) whether any person has made any provision by will or otherwise for the education and support of the minor and, if so, a copy thereof;
- (e) all previous allowances by decree;
- (f) the school or institution which it is proposed the minor shall attend, or information to substantiate the allowance for support, care or maintenance and how the desired allowance shall be paid; and
- (g) a recommendation to the court of an amount that should be allowed.

ORPHANS' COURT DIVISION RULE 5.21

RULE 5.21 CORPORATIONS SERVING AS FIDUCIARIES

Sec. 1. Petitions.

Subject to the provisions of Section 6 of this Rule, a petition of a corporation organized under the laws of the Commonwealth or of the United States having fiduciary powers, doing business for one year or longer and desiring to exercise fiduciary powers, shall set forth the following:

- (a) the corporate name, the location of its business, the statutory authority for its existence, the date and purpose of its incorporation, any changes therein and the number of years it has been in operation;
- (b) the names and addresses of its executive officers and directors and the stock in the petitioner held by each;
- (c) the interest, direct or indirect, which the petitioner has in the capital stock of any other corporation organized for the conduct of a similar business; and the name of any corporation or group of allied persons or both holding or controlling a majority of the stock of the petitioner;
- (d) if the petitioner is a national banking association, the grant of fiduciary powers to it by the Comptroller of the Currency (*see* Pa. C.S. § 160(c));
- (e) that the petitioner will make a deposit of the sum of \$500 with the clerk on presentation of the petition, to be used so far as necessary to pay the fees of the Examiner of Fiduciaries and will make any further deposit in excess thereof that may be ordered by the court; and providing:
 - (i) that it will submit to a preliminary examination of all its books, assets and liabilities, and, if approved, will submit to all other examinations directed by the court and will pay all costs and expenses of examination fixed by the court;
 - (ii) that fiduciary funds and investments under the control of the court will not be mingled with assets owned by the petitioner or other assets in which it has any interest except as fiduciary,
 - (iii) that investments made by the petitioner as fiduciary shall be so designated that the estate or trust to which such investments belong shall be clearly shown;
- (f) the passage of a resolution by the board of directors of the petitioner

(iv) that uninvested capital trust funds and income to be invested shall be segregated and designated as directed by applicable state and federal law;

(v) that it will submit to the court in January and July of each year a statement duly verified showing its financial condition at the close of business on December 31st and June 30th of each year in the form required by the Examiner of Fiduciaries;

(vi) that it accept the provisions of the Acts of Assembly relating to corporate fiduciaries now or hereafter in existence, and of all orders and rules of court relating to the petitioner;

(vii) that the petitioner will not become surety on any bond, except as otherwise allowed by law;

(viii) that designated officers will execute any and all petitions, writings and obligations necessary in the exercise of fiduciary powers and that their names and any changes therein will be filed of record with the Examiner of Fiduciaries:

(ix) that its counsel of record shall be the agent of the petitioner to receive all notices issuing from the court; and

(x) that the gross amount loaned by it to all its officers and directors and to the firms or houses in which they may be interested, directly or indirectly, shall not exceed the amount allowed by applicable state and federal law.

(g) whether the petitioner has applied to any other court in Pennsylvania for approval to exercise fiduciary powers, and the results of any such applications.

Sec. 2. Exhibits.

Exhibits shall be attached in the following order:

(a) a certified copy of its charter, amendments and renewals;

(b) the approval of the State Banking Department or a certified copy of the certificate from the Comptroller of the Currency granting it the right to exercise fiduciary powers;

(c) a certified copy of the resolution of the petitioner embodying the allegations of Section 1(f), of this Rule;

(d) a current financial statement of the petitioner showing its total assets and liabilities in the form required by the Secretary of Banking or the Comptroller of the Currency; and

(e) the certificate of approval, or order for authority to exercise fiduciary powers by the court of Common Pleas of the county where the corporate petitioner's principal office is located as well as all certificates of approval or orders for authority to exercise fiduciary powers which have been issued by any other court of any other county in Pennsylvania.

Sec. 3. Officer's Oath to Petition - Records for Examiner.

The petition shall be sworn to by an officer of the petitioner authorized by resolution. When the petition is presented to the court, counsel shall deliver to the Examiner:

(a) a certified copy of the last report of the petitioner's examination by the Secretary of Banking or the Comptroller of the Currency; and

(b) a copy of the petitioner's by-laws.

Sec. 4. Preliminary Order.

Upon presentation of the petition, a preliminary order will be made in the following form:

And now, this _____ day of _____, 20____, the within petition having been presented in open court, upon consideration thereof it is ordered, adjudged and decreed that the petition be referred to _____, Examiner of Fiduciaries, who is directed to make a report thereon to the court.

Sec. 5. Final Order.

After examination and report by the Examiner and consideration by the court, a final order of approval may be made in the following form:

And now, this _____ day of _____, 20____, it appearing to the court that the petition of _____, a corporation, for authority to exercise fiduciary powers, was presented in open court and referred to _____, Examiner, who has filed a report, and it further appearing from such petition and report that the petitioner has complied with the applicable laws and the rules of this court, and has subjected itself to all orders and rules of this court hereafter to be made, upon motion of _____, counsel for petitioner, it is ordered, adjudged and decreed that _____ be and is hereby authorized to act as fiduciary, when designated, chosen or appointed according to law.

Sec. 6. Suspension of Rule with Respect to Certain Corporations or Entities.

The application of this Rule shall be suspended with respect to corporations or entities desiring to exercise fiduciary powers in Allegheny County, Pennsylvania, if such corporation or entity is one of the following:

- (a) a national bank authorized to exercise fiduciary powers pursuant to 12 U.S.C. 92(a) and to perform fiduciary services in this Commonwealth;
- (b) a bank, a bank and trust company, a trust company or to the extent provided under the Pennsylvania Banking Code of 1965, a savings bank which is authorized to perform fiduciary services under Section 106 of the Pennsylvania Banking Code of 1965;
- (c) a federal savings bank which is authorized to exercise trust powers by the Office of Thrift Supervision pursuant to 12 U.S.C. §1464(n); or
- (d) a bank, a bank and trust company, a trust company or savings bank which is regulated by the Office of Thrift Supervision, chartered under laws of another state or territory of the United States and satisfies the requirements of Section 106(b) of the Pennsylvania Banking Code of 1965.

Such corporation or entity shall submit to the Orphans' Court a copy of its charter, and for corporations or entities described under subsection (d) above an approval letter from the Pennsylvania Department of Banking under Section 106.

Corporations or entities qualifying under any of the above requirements need not comply with the requirements of this Rule, but shall file annually with the court a statement that they continue to be authorized to exercise fiduciary powers by their governing regulatory entity. In the event the corporation or entity has its authorization to exercise fiduciary powers revoked or suspended, the court shall be immediately notified.

ORPHANS' COURT DIVISION RULE 5.22

RULE 5.22 SURETY COMPANIES

Sec. 1. Petitions.

A petition of a surety company, whether a stock company or a mutual company, having a capital and surplus of not less than \$4,000,000, with a minimum paid-in capital of \$1,000,000, to become surety on bonds of fiduciaries shall set forth in the following order:

- (a) the corporate name, the location of its business, the statutory authority for its existence, the date and purpose of its incorporation, any changes therein, and the number of years it has been in operation;
- (b) the amount, if any, of its capital stock, how paid, the number of shares issued and par value thereof;
- (c) the amount of its capital and surplus;
- (d) the names and addresses of its officers (excluding assistant officers), and directors and the ownership interest in the petitioner held by each;
- (e) the interest, direct or indirect, which the petitioner has in the capital stock of any other corporation organized for conducting a similar business; and the name of any corporation or group of allied persons or both holding or controlling a majority of the stock of the petitioner;
- (f) whether the petitioner has assumed or underwritten policies issued by any other company and in force at the date of its petition;
- (g) the provision made to protect itself from excessive losses in the event of a catastrophe under employers' liability or workers' compensation contracts or otherwise;
- (h) that on presentation of the petition, the petitioner will deposit a sum determined by the court, to be used as far as necessary to pay the fees of an examiner and will make any further deposit in excess thereof that may be ordered by the court;
providing:
 - (i) the passage of a resolution by the board of directors of the petitioner
 - (1) that it will submit to a preliminary examination of its books, assets and liabilities and, if approved, will submit to all other examinations ordered by the court and will pay all costs and expenses of examination fixed by the court;

- (2) that fiduciary property coming into its custody will not be taken out of the jurisdiction of the court but will be managed and controlled by the company subject to orders of the court;
- (3) that no suretyship will be accepted in any sum greater than allowed by any Act of Assembly of Pennsylvania;
- (4) that it will submit to this court not later than the first week of March of each year a statement duly verified showing its financial condition at the close of business on December 31st preceding, in the form required by the Insurance Commissioner of the Commonwealth of Pennsylvania, together with a sworn or certified copy of the annual renewal certificate when issued by the Insurance Commissioner of Pennsylvania, permitting the transaction of its business within the Commonwealth;
- (5) its acceptance of the provisions of the Acts of Assembly of Pennsylvania relating to surety companies now or hereafter in existence and to all final orders of court relating to the petitioner;
- (6) that the names of its officers or agents authorized to execute petitions, writings, and obligations on its behalf, and any changes therein, will be filed of record in the court with the Examiner of Fiduciaries; and
- (7) that its counsel of record shall be the agent of the petitioner to receive all notices issuing from the court.

Sec. 2. Exhibits.

Exhibits shall be attached in the following order:

- (a) a certified copy of its charter with amendments and renewals;
- (b) a certificate of authority to do business in Pennsylvania issued by the Insurance Commissioner;
- (c) a certified copy of the resolution of the petitioner embodying the allegations of clauses (1), (2), (3), (4), (5), (6), and (7) of Sec. 1(i) of this rule;
- (d) a financial statement of the petitioner showing its total assets and liabilities in the form required by the Insurance Commissioner of Pennsylvania; and
- (e) a certified copy of the certificate appointing the Insurance Commissioner of Pennsylvania attorney in fact for the petitioner.

Sec. 3. Officer's Oath to Petition. Records for Examiner.

The petition shall be sworn to by an officer of the petitioner authorized by resolution to do so. When the petition is presented to the court, counsel shall deliver to the Examiner:

- (a) a copy of the last report of the petitioner made to the Insurance Commissioner of any state;
- (b) a certified copy of the last report of examination by the Insurance Commissioner of any state; and
- (c) a copy of the petitioner's by-laws.

Sec. 4. Preliminary Order.

Upon presentation of the petition a preliminary order will be made in the following form:

And now, _____, 20____, the within petition having been presented in open court, upon consideration thereof it is ordered, adjudged, and decreed that the petition be referred to _____, Examiner of Fiduciaries, who is directed to make a report thereon to the court.

Sec. 5. Final Order.

After examination and report by the Examiner and consideration by the court, a final order of approval may be made in the following form:

And now, this _____ day of _____, 20____, it appearing to the court that the petition of _____, a corporation, for authority to become surety on bonds or undertakings, was presented in open court and referred to _____, Examiner, who has filed a report, and it further appearing from such petition and report that the petitioner has complied with the applicable laws and with the rules of this court and has subjected itself to all orders and rules of this court hereafter to be made, upon motion of _____, counsel for petitioner, it is ordered, adjudged, and decreed that _____ be and is hereby authorized to become surety on bonds or undertakings permitted or required by law.

Sec. 6. Annual Examination Fee.

Every surety company, after approval by the court, shall annually deposit with the clerk a sum determined by the court for the expenses of examination of the annual records required to be submitted under Sec. 1(i)(4) in addition to the expense of any other examination which may be required.

CHAPTER IX. AUDITORS AND MASTERS

ORPHANS' COURT DIVISION RULE 9.1

RULE 9.1 NOTICE OF HEARINGS

Unless otherwise directed in the order appointing the auditor or master, 20 days' notice shall be given of a hearing to the interested parties.

ORPHANS' COURT DIVISION RULE 9.6

RULE 9.6 NOTICE OF FILING REPORT

Unless otherwise directed in the order appointing the auditor or master, notice of the filing of the report or of the intention to file the report shall be given to the interested parties.

ORPHANS' COURT DIVISION RULE 9.7

RULE 9.7 CONFIRMATION OF REPORT

Sec. 1. Objections.

Objections to the report of a master or auditor may be filed by the parties within twenty (20) days after receiving notice of the filing of the report. Copies of the Objections shall be served upon all other parties and a courtesy copy shall be provided to the Judge who appointed the Master or Auditor. Objections shall be set forth precisely and without discussion. Any matters not covered by Objections are deemed to be waived.

Sec. 2. Cross Objections.

If a party files timely Objections, then any other party to the action may file Cross Objections within twenty (20) days after the filing of Objections.

Sec. 3. Master/Auditor Fees.

The Master/Auditor shall, after prior notice to all parties, petition the court to award the fees of the Master of Auditor. The petition shall state that the Master/Auditor has filed a report, given notice to counsel of the filing thereof and the Master/Auditor has no further duties to perform. The petition shall include a detailed list of services provided and the amount for which the Master/Auditor considers to be reasonable compensation.

Sec. 4. Briefing and Argument.

Within thirty (30) days of receipt of the filing of the Objections, the court shall schedule a briefing and argument schedule with regard to the Objections. After briefing and/or argument, the court shall enter such Order or Decree as may be appropriate with regard to the matter addressed by the Auditor/Master.

Explanatory Comment: The objection procedure provided for in the rule is exclusive to Chapter IX. Auditors and Masters and has no relevance to Rule 2.7 Objection to Account.

CHAPTER XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS

ORPHANS' COURT DIVISION RULE 14

RULE 14. INCAPACITATED PERSONS; GUARDIANS

Sec. 1. Petition Contents.

- (a) A petition for the appointment of a guardian of the estate or person of an alleged incapacitated person shall set forth:
- (1) the name, age, residence and post office address of the alleged incapacitated person;
 - (2) the names and addresses of the spouse, parents and presumptive adult heirs of the alleged incapacitated person;
 - (3) the name and address of the person or institution providing residential services to the alleged incapacitated person;
 - (4) the names and addresses of other service providers;
 - (5) the name and address of the person or entity whom petitioner asks to be appointed guardian;
 - (6) an averment that the proposed guardian has no interest adverse to the alleged incapacitated person;
 - (7) the reasons why guardianship is sought;
 - (8) a description of the functional limitations and physical and mental condition of the alleged incapacitated person;
 - (9) the steps taken to find less restrictive alternatives;
 - (10) the specific areas of incapacity over which it is requested that the guardian be assigned powers; and
 - (11) the qualifications of the proposed guardian.
 - (12) If a limited or plenary guardian of the estate is sought, the petition shall also include the gross value of the estate and the net income of the alleged incapacitated person from all sources to the extent known;
 - (13) the potential for conflict with regard to the issue of who will be appointed as guardian and with regard to the issue of capacity;

(14) the current status of the alleged incapacitated person (i.e. unconscious, unable to communicate due to a stroke, combative, etc.); and

(15) If an emergency guardian is sought, the petition shall also include an indication as to whether or not the condition of the alleged incapacitated person is one that will or will not be remedied within the first 72 hours.

(b) A consent, signed by the proposed guardian, shall be attached to the petition in which the proposed guardian shall agree to act as guardian of the person or the estate of the alleged incapacitated person if appointed by the Court and shall state that the proposed guardian has no interest adverse to that of the alleged incapacitated person and is not a fiduciary of any estate, trust or similar fund in which the alleged incapacitated person has an interest.

(c) The petition shall conclude with a prayer for the appointment of a guardian of the estate or person or both of the alleged incapacitated person and for the award of a citation directed to the alleged incapacitated person to show cause why he should not be adjudged an incapacitated person and why a guardian should not be appointed.

Sec. 2. Preliminary Order; Notice; Service

(a) Upon presentation of a petition for the appointment of a guardian, the Court will enter a preliminary order awarding the citation prayed for. The form of the preliminary order shall be substantially as set out in the appendix to this Rule.

(b) Written notice of the petition and hearing, to which shall be attached the citation and a copy of the petition and preliminary order, shall be provided to the alleged incapacitated person. The written notice shall be in large type and in simple language and shall indicate the purpose and seriousness of the proceeding, the rights that can be lost as a result thereof, the date, time and place of the hearing, and that the alleged incapacitated person has the right to request the appointment of counsel, to have counsel appointed if the Court deems it appropriate, and to have such counsel paid for if it cannot be afforded.

(c) Personal service of the written notice, petition, citation and preliminary order shall be made on the alleged incapacitated person and the contents and terms of the petition shall be explained to such person to the maximum extent possible in language and terms the individual is most likely to understand. Service shall be no less than 20 days in advance of the hearing. In addition, notice of the petition and hearing shall be given in such manner as the Court shall direct to all persons residing within the Commonwealth who are sui juris and would be entitled to share in the estate of the alleged incapacitated person if he died intestate at that time, to the person or institution providing residential services to the alleged incapacitated person and to such other parties as the Court

may direct, including other service providers. An Affidavit of Service shall be filed on or before the day of hearing.

Sec. 3. Notice of Retention of Counsel

(a) Counsel retained by the person alleged to be incapacitated in a petition under 20 Pa. C.S.A. §5511(A) shall enter an appearance and shall provide a copy thereof to the petitioner at least seven (7) days prior to the date set for hearing as set out in the appendix to this Rule.

(b) If petitioner does not receive notice under Sec. 3(a) that counsel has entered an appearance on behalf of the alleged incapacitated person, petitioner shall notify the Court in writing at least seven (7) days prior to the date set for hearing that the alleged incapacitated person is not represented by counsel as set out in the appendix to this Rule.

Sec. 4. Hearing

At the time fixed for the hearing on the petition, testimony shall be submitted in support of the petition (See 20 Pa. C.S.A. §§5512.1, 5518 and 5518.1). The alleged incapacitated person shall be present in court at such hearing unless (1) the Court is satisfied, upon the deposition or testimony of, or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence; or (2) it is impossible for him to be present because of his absence from the Commonwealth.

Sec. 5. Appointment of Guardian

(a) Findings. In all cases, the Court, upon presentation of proper proof, shall consider and make specific findings of fact as required by 20 Pa. C.S.A. §5512(A).

(b) Final Orders. The Court shall determine whether a plenary or limited guardian of the person or estate of the alleged incapacitated person is required. The forms of final orders for the appointment of plenary and limited guardians are set out in the appendix to this Rule.

Sec. 6. Emergency Guardians.

(a) Petition. A petition for the appointment of an emergency guardian of the person or estate of the alleged incapacitated person shall both set forth the information required in 20 Pa. C.S.A. §5511(E) and Sec. 1 of this Rule and shall be subject to the provisions of 20 Pa. C.S.A. §5511 (including those relating to notification concerning the right to counsel and the appointment of such counsel for the alleged incapacitated person), unless the Court directs in its order setting the time of the emergency hearing that the preparation and inclusion of such information is not feasible under the circumstances. Such emergency petitions must, however, contain facts and information sufficient to enable the Court to determine that: 1) the person allegedly lacks capacity; 2) is in need of the

appointment of an emergency guardian; and 3) the failure to make such appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.

(b) Citation. Upon presentation of an appropriate petition for the appointment of an emergency guardian of the person or estate of an alleged incapacitated person, the Court will enter an order awarding a citation, subject to the provisions of 20 Pa. C.S.A. §5511(A), and will direct such notice as it shall determine to be feasible in the circumstances to persons appearing to be entitled to such notice. In addition to fixing a return day for the filing of a written answer to the petition (though such written answer shall not be mandatory), the order shall also fix a time and place for hearing on the petition. The citation, together with written notice of the Petition, to which shall be attached a copy of the petition and the order, shall be served personally upon the alleged incapacitated person prior to the hearing. The forms of orders for the setting of a hearing upon a petition for appointment of an emergency guardian of the person or the estate of an alleged incapacitated person shall be substantially as provided in the appendix to this Rule.

(c) Hearing. At the time fixed for hearing on the petition for appointment of an emergency guardian, testimony shall be submitted in support of the petition (See 20 Pa. C.S.A. §§5513 and 5518). The alleged incapacitated person shall be present at the hearing unless: 1) the Court is satisfied, upon the deposition, testimony or sworn statement by a physician or licensed psychologist, that his physical or mental condition would be harmed by his presence, or 2) it is impossible for him to be present because of his absence from the Commonwealth.

(d) Appointment of Emergency Guardian. Upon proper proof, the Court shall make a finding of incapacity and appoint an emergency guardian of the person or estate, or both, pursuant to 20 Pa. C.S.A. §§5512.1 and 5513 and, if the petition is for the appointment of an emergency guardian of the estate, will fix the amount of the surety bond, if any, to be filed by the guardian. The required bond must be submitted to the Court for approval and filed in the Clerk's office before the order of appointment will be released by the Court. The emergency guardian of an alleged incapacitated person shall have only and be subject to such powers, duties, and liabilities and serve for such time as the Court in its order of appointment shall direct. The forms of orders of appointment of an emergency guardian shall be substantially as provided in the appendix to this Rule.

Sec. 7. Inventory

Within three months after the real or personal property of the incapacitated person comes into his possession or as otherwise ordered by the Court, a guardian of the estate of an incapacitated person shall verify by oath and file with the Clerk an inventory and appraisal of personalty and a statement of real estate, and a statement of any real or personal property which the guardian expects to acquire thereafter.

Sec. 8. Reports Required of Guardian

- (a) Each guardian of an incapacitated person shall file a report with the Court at least once within the first twelve (12) months of his appointment or such earlier time as may be set by the Court and at least annually thereafter.

- (b) The annual report of a guardian of the estate of an incapacitated person shall include:
 - (1) Assets held by the guardian and the current value thereof.

 - (2) All receipts and disbursements of principal and income since the date of appointment of the guardian, or, if later, since the date of the last annual report. The report shall identify expenditures which have been made since the date of appointment or, if later, the date of the last annual report, pursuant to any order for an allowance under 20 Pa. C.S.A. §5536, or otherwise for the housing, maintenance, support medical expenses, rehabilitation, education and other needs of the incapacitated person.

 - (3) The estimated annual income of the assets held by the guardian and from other sources.

 - (4) Notice of the filing of the annual report by the guardian of an estate shall be provided to the guardian's surety, the guardian of the person if someone other than the guardian of the estate, the incapacitated person and his or her counsel, if any, and such other interested parties as the Court may direct.

The form of the Report of a guardian of the estate shall be substantially as set out in the appendix to this Rule.

- (c) Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the estate of such incapacitated person shall file a final report with the Court and an Account covering the period from the date of the appointment of the guardian of the estate to the date of death of the incapacitated person or the adjudication of capacity.

- (d) The annual report of guardian of the person of an incapacitated person shall include:
 - (1) Current address, type of placement and living arrangements of the incapacitated person, e.g.: private home, personal care facility, hospital, institution, etc.

 - (2) Major medical or mental problems of the incapacitated person.

- (3) A brief description of the social, medical, psychological and other support services the incapacitated person is receiving.
- (4) The opinion of the guardian as to whether the guardianship should continue or be terminated or modified, and the reasons therefor.
- (5) The number and length of times the guardian visited the incapacitated person in the past year.

The form of the report of a guardian of the person shall be substantially as set out in the appendix to this Rule.

- (e) Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the person shall file a final report with the Court, providing the address and type of placement of the incapacitated person as of the date of death or adjudication of capacity, number and length of times the guardian visited the incapacitated person since the last report, and the reason why the report is being filed.

Sec. 9. Petition for Allowance

A petition under 20 Pa. C.S.A. §5536 for an allowance from the incapacitated person's estate during incapacity, may be presented by the guardian or any interested party. The petition shall set forth:

- (a) the name of the guardian and the date of the guardian's appointment; if the petitioner is not the guardian, the petitioner's relationship to the incapacitated person or the nature of the petitioner's interest;
- (b) the nature and present value of the incapacitated person's estate and the net annual income therefrom;
- (c) the address of the incapacitated person; dependents, if any;
- (d) the names and addresses of the incapacitated person's
- (e) a statement of all claims of the incapacitated person's creditors known to the petitioner;
- (f) all previous allowances by decree; and
- (g) a prayer for the allowance requested.

No order for an allowance out of an incapacitated person's estate shall be made without prior notice to the incapacitated person's guardian, if any.

Sec. 10. Sales, Mortgages, Leases, Exchanges and Options

A petition for a sale, mortgage, lease, exchange or option of an incapacitated person's real or personal property shall comply with 20 Pa. C.S.A. §§3353, 5155, and 5521(B), and the applicable provisions of Rules 5.10, 5.11 and 5.12.

Notice of a sale or other transaction under this section shall be given to all persons who are sui juris and would be entitled to share in the estate of the incapacitated person if the incapacitated person died intestate at the time the petition is presented.

Sec. 11. Small Estates

(a) When the entire real and personal estate, wherever located, of a resident or non-resident alleged incapacitated person has a gross value of \$25,000 or less, a petition to have him adjudged incapacitated shall be filed in the form prescribed in Sec. 1 of this Rule except that the appointment of a guardian of his estate shall not be requested. After the hearing on such a petition and upon presentation of the required evidence, the Court will make a finding of incapacity as to the alleged incapacitated person and may authorize the person or institution maintaining the person to receive and hold or dispose of the property of the person without the appointment of a guardian or the entry of security.

(b) Without the appointment of a guardian, any amount in cash of a resident or non-resident incapacitated person may be ordered by the Court to be deposited in one or more savings accounts in the name of the person in banks, building and loan associations or savings and loan associations insured by a federal government agency, provided that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are thus insured. Every such order shall contain a provision that no withdrawal can be made from any such account except as authorized by order of Court.

Sec. 12. Foreign or Successor Guardian.

(a) A foreign guardian shall file an exemplification of the record of the foreign guardianship in the office of the Register of Wills and thereafter a petition with the Court requesting full faith and credit to be given to the foreign adjudication of incompetency. The Court will enter a preliminary order awarding a citation directed to the alleged incapacitated person and providing that at least twenty days' written notice of the proceeding be given to all persons appearing to be entitled to such notice. In addition to fixing a return day for the citation, the order shall also fix a time and place for hearing on the petition. The citation, together with a copy of the petition and order, shall be served personally on the alleged incapacitated person. Notice to other persons shall be given personally or by registered or certified mail. The forms of preliminary and final orders as approved by the Court are as provided in the appendix to these Rules.

(b) The Court, after such notice to parties in interest as it shall direct, may without a hearing appoint a succeeding guardian to fill a vacancy in the office of

guardian or may appoint a co-guardian of the estate of an incapacitated person. Where the vacating guardian was a parent who is now deceased, any testamentary nominee of the parent shall be given preference by the court.

Sec. 13. Distribution of Principal (Estate Plan)

In all petitions brought under 20 Pa. C.S.A. §5536(b), the Court will appoint a guardian ad litem to represent the interests of the incapacitated person at the hearing on the petition.

Alternate

In all petitions brought under 20 Pa. C.S.A. §5536(b), petitioner shall (1) request the Court to appoint a guardian ad litem to represent the interests of the incapacitated person in the proceedings, or (2) assert facts and circumstances as to why such guardian need not be appointed.

TABLE OF APPENDICES

Appendix A:	Rescinded
Appendix B-1:	Preliminary Order awarding a Citation for Permanent Guardianship under Rule 14, Sec. 2(a)
Appendix B-2:	Preliminary Order awarding a Citation for Emergency and Permanent Guardian under Rule 14, Sections 2(a) and 6(a)
Appendix C:	Final Order appointing Permanent Limited Guardian under Rule 14, Sec. 5(b)
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Appendix E	Order appointing Emergency Limited Guardian under Rule 14, Sec. 6(b)
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Appendix G-01:	Rescinded
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Appendix B-1: Preliminary Order awarding a Citation for Permanent Guardianship under Rule 14, Sec. 2(a)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE:)
)
) No.
*¹ _____)
an alleged incapacitated person)

PRELIMINARY ORDER OF COURT
(Non-Emergency Guardian)

AND NOW, this ____ day of _____, the foregoing Petition having been presented in open Court, and upon consideration thereof, and upon motion of *_____, Esquire, counsel for the Petitioner, it is ORDERED and DECREED that a Citation be awarded directed to *_____, to show cause why *he/she should not be adjudged an incapacitated person and a plenary guardian of *his/her person and estate be appointed, returnable the ____ day of _____, at ____ o'clock __.m. prevailing time, at which time and place a hearing on the Petition for Appointment of a Plenary Guardian of the person and of the Estate of the Alleged Incapacitated Person will be held in the Orphans' Court Division of the Court of Common Pleas of Allegheny County, 17th Floor, Frick Building, 437 Grant Street, Pittsburgh, Pennsylvania 15219.

At least twenty (20) days written notice of the hearing shall be given to *_____, the alleged incapacitated person, by serving *him/her personally with a Citation and this Order of Court and a copy of the foregoing Petition together with an _____

¹ 3 Sections marked by asterisk (*) must be completed by counsel before Court presentation.

explanation of the content and terms of the Petition; at least twenty (20) days written notice of the Petition and hearing shall also be given to the next of kin and other parties in interest named in the Petition either personally or by registered or certified mail.

BY THE COURT:

_____ J.

Appendix B-2: Preliminary Order awarding a Citation for Emergency and Permanent Guardian under Rule 14, Sections 2(a) and 6(a)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: _____)
 _____)
 *2 _____) No.
 an alleged incapacitated person)

PRELIMINARY ORDER OF COURT
(Emergency and Permanent Guardian)

AND NOW, this ____ day of _____, the foregoing Petition having been presented in open Court, upon consideration thereof and on motion of

* _____, counsel for petitioner, it is ORDERED and DECREED that a Citation be awarded, directed to * _____, to show cause why *he/she should not be adjudged an incapacitated person and a *plenary/limited guardian of *his/her person and estate be appointed. The citation shall be returnable and an emergency and permanent hearing on the Petition and any answer thereto shall be held on the following dates and times:

Emergency Guardianship	Permanent Guardianship
Return Date:	Return Date:
Hearing Date:	Hearing Date:
Hearing Time:	Hearing Time:

Courtroom:

² 3Sections marked by asterisk (*) must be completed by counsel before Court presentation.

The alleged incapacitated person shall be given notice of the hearing on appointment of an emergency guardian of *his/her person and estate by serving *him/her personally with the Citation, this Order of Court and a copy of the foregoing Petition prior to the time of such emergency hearing.

OR

The court finds that service of notice of the hearing on appointment of an emergency guardian upon the alleged incapacitated person is not feasible under the circumstances and is, therefore, waived pursuant to 20 Pa. C.S. §5513.

Any Answer or other response to the Petition shall be filed at the Office of the Register of Wills of Allegheny County sitting as Clerk of the Orphans' Court, First Floor, City-County Building, Pittsburgh, Pennsylvania 15219. Hearings shall be held at the Orphans' Court Division of the Court of Common Pleas of Allegheny County, 17th Floor, Frick Building, 437 Grant Street, Pittsburgh, Pennsylvania 15219.

The Court finds that strict compliance with 20 Pa. C.S. §5511(E) and Rule 14, Section 1 of the Allegheny County Orphans' Court Division Rules (both relating to contents of the Petition) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an emergency guardian of the alleged incapacitated person.

The Court further finds that strict compliance with 20 Pa. C.S. §5511(A) (relating to notification concerning the right to counsel and the appointment of counsel for the alleged incapacitated person) are not feasible under the circumstances and are waived for the purpose of the hearing on appointment of an emergency guardian of the alleged incapacitated person.

At least twenty (20) days written notice of the hearing on appointment of a permanent guardian shall be given to * _____, the alleged incapacitated person, by

serving *him/her personally with a copy of the Petition, the citation and this Order of Court, together with an explanation of their contents. At least twenty (20) days written notice of the petition and hearing on the appointment of a permanent guardian shall be given to the next of kin and other parties in interest named in the petition, either personally or by registered or certified mail.

BY THE COURT:

_____ J.

Appendix C: Final Order appointing Permanent Limited Guardian under Local Rule 14, Sec. 5(b)

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA ORPHANS' COURT DIVISION

IN RE: _____)
 _____)
 *³ _____) No.
 an alleged incapacitated person)

ORDER OF COURT DETERMINING PARTIAL INCAPACITY AND APPOINTING PERMANENT LIMITED GUARDIAN OF PERSON AND ESTATE

AND NOW, this ____ day of _____, a hearing in this case having been held on * _____, and it appearing to the Court that _____, was served with a Citation and Notice of the hearing on _____, and was present at the hearing (or) the Court finds that the physical or mental condition of * _____ would be harmed by *his/her presence at the hearing, and further finds from the testimony:

1. That * _____ suffers from _____, a condition or disability which partially impairs *his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning *his/her management of financial affairs or to meet essential requirements for *his/her physical health and safety.

2. That there are insufficient supports available to assist * _____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of a limited Guardian.

³ 3 Sections marked by asterisk (*) must be completed by counsel before Court presentation.

3. That based on the partial incapacity of * _____, to receive and evaluate information effectively and to make or communicate decisions, a Limited Guardian of the Person and a Limited Guardian of the Estate are required on a permanent basis.

NOW, THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED, ADJUDGED and DECREED that

* _____ be and is hereby adjudged a partially incapacitated person.

* _____ is appointed Limited Permanent Guardian of the Person of * _____ and _____ is appointed Limited Permanent Guardian of the Estate of * _____.

The Limited Guardian of the Person shall have full authority to consent to the general care, maintenance and custody of * _____, except as follows: _____

The Limited Guardian of the Person shall assure that * _____ receives appropriate services and shall assist *him/her in developing self reliance and independence.

The Limited Guardian of the Estate shall have the authority to marshall all of * _____'s income and assets except that * _____, the incapacitated person, shall retain the following power and authority to act on *his/her own behalf: _____.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the incapacitated person's property, and said record shall be filed with the Clerk of the Orphans'

Court Division. None of the incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed within _____ days and annually thereafter.

Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the estate shall file a final accounting.

A Surety Bond in the amount of _____ shall be presented for approval by the Guardian of the Estate within five (5) days of the date of this Order.

* _____, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established. If * _____ was not present at this hearing on the adjudication of *his/her incapacity and the appointment of a guardian then Petitioner shall serve upon and read to * _____ the Statement of Rights attached to this Order and marked Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

_____ J.

Appendix D: Final Order Appointing Permanent Plenary Guardian under Rule 14, Sec. 5(b)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE:)
)
) No.
*4 _____)
an alleged incapacitated person)

**ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING
PERMANENT
PLENARY GUARDIAN OF PERSON AND/OR ESTATE**

AND NOW, this _____ day of _____, a hearing in this case having been held on * _____, and it appearing to the Court that

* _____, was served with a Citation and Notice of the hearing on

* _____, and was present at the hearing (or) the Court finds that the physical or mental condition of * _____ would be harmed by his/her

presence at the hearing, and further finds from the testimony:

1. That * _____ suffers from _____, a condition or disability which totally impairs *his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning *his/her management of financial affairs or to meet essential requirements for his/her physical health and safety.

⁴ 3Sections marked by asterisk (*) must be completed by counsel before Court presentation.

2. That there are insufficient supports available to assist * _____ in overcoming such limitations and that there exists no less restrictive mechanism for decision making that the appointment of a Plenary Guardian.

3. That based on the total incapacity of * _____, to receive and evaluate information effectively and to make or communicate decisions, a Plenary Guardian of the Person and Plenary Guardian of the Estate are required on a permanent basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED, ADJUDGED and DECREED that * _____ be and hereby is adjudged a totally incapacitated person. * _____ is appointed Permanent Plenary Guardian of the Person of * _____ and * _____ is appointed Permanent Plenary Guardian of the Estate of * _____.

The Permanent Plenary Guardian of the Person shall have full authority to consent to the general care, maintenance and custody of * _____ without exception.

The Permanent Plenary Guardian of the Person shall assure that * _____ receives appropriate services and shall assist him/her in developing self-reliance and independence.

The Limited Guardian of the Estate shall have the authority to marshal all of * _____'s income and assets, pay his/her bills and manage *his/her financial affairs as fully as * _____ could do so *himself/herself if *he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person and another or others, said safe deposit box shall not be entered by

the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by the Guardian.

An Inventory must be filed within ninety (90) days. A report by the Guardian of the Person and Estate shall be filed within _____ days and annually thereafter in a form approved by the Orphans' Court Divisions.

Within sixty (60) days of the death of the incapacitated person or an adjudication of capacity and modification of existing orders, the guardian of the estate shall file a final accounting.

A Surety Bond in the amount of _____ shall be presented for approval by the Guardian of the Estate within five (5) days of the date of this Order.

* _____, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If * _____ was not present at the hearing on the adjudication of *his/her incapacity and appointment of a guardian then Petitioner shall serve upon and read to * _____ the Statement of Rights attached to this Order of Court and marked as

Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

_____J.

Appendix E: Order Appointing Emergency Limited Guardian Under Rule 14, Section 6(b)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: _____)
)
) No.
*⁵ _____)
an alleged incapacitated person)

**ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING
EMERGENCY LIMITED GUARDIAN OF PERSON AND/OR ESTATE**

AND NOW, this _____ day of _____, a hearing in this case having
been held on _____, and it appearing to the Court that

* _____, was served with a Citation and Notice of the hearing on
* _____, and was present at the hearing (or) the Court finds that the physical or
mental condition of * _____ would be harmed by *his/her presence at the
hearing, and further finds from the testimony:

1. That * _____ suffers from * _____, a condition or
disability which partially impairs his/her capacity to receive and evaluate information effectively
and to make and communicate decisions concerning *his/her management of financial affairs or
to meet essential requirements for *his/her physical health and safety.

⁵Sections marked by asterisk (*) must be completed by counsel before Court presentation

2. That there are insufficient supports available to assist * _____ in overcoming such limitations and that there exists no less restrictive alternative mechanism for decision making than the appointment of a Limited Guardian.

3. That based on the partial in capacity of * _____, to receive and evaluate information effectively and to make or communicate decisions, a Limited Guardian of the person and Limited Guardian of the Estate are required on a emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED, ADJUDGED and DECREED that * _____ be and hereby is adjudged a partially incapacitated person.

_____ is appointed Emergency Limited Guardian of the Person of * _____ and _____ is appointed Emergency Limited Guardian of the Estate of * _____.

The Emergency Limited Guardian of the Person shall have authority to consent to the general care, maintenance and custody of * _____ with the exception of :
_____.

The Emergency Limited Guardian of the person shall assure that * _____ receives appropriate services and shall assist *him/her in developing self-reliance and independence.

The Emergency Limited Guardian of the Estate shall have the authority to marshal all of * _____'s income and assets except that * _____, the incapacitated person, shall retain the following power and authority to act on *his/her own behalf:

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by the Guardian.

The appointment of Emergency Limited Guardian of the Person and Estate shall remain in effect until further Order of Court.

NO BOND REQUIRED ON EMERGENCY LIMITED GUARDIAN APPOINTMENT.

The testimony from this hearing on the emergency adjudication of incapacity and guardianship herein established shall be preserved and perpetuated for the hearing on the permanent adjudication of incapacity and guardianship.

_____, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If * _____ was not present at the hearing on the adjudication of *his/her incapacity and the appointment of a guardian then Petitioner shall serve upon and read to * _____ the Statement of Rights attached to this Order of Court and marked as

Exhibit A. Proof of service of the Statement of Rights shall be filed by the Guardian with the Clerk of the Orphans' court within ten (10) days of the date of this Order.

BY THE COURT:

_____J.

Appendix F: Order Appointment Emergency Plenary Guardian under Local Rule 14, Section 6(d)

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: _____)
)
) No. of
*⁶ _____)
an alleged incapacitated person.

**ORDER OF COURT DETERMINING INCAPACITY AND APPOINTING
EMERGENCY PLENARY GUARDIAN OF PERSON AND/OR ESTATE**

AND NOW, this _____ day of _____, _____, a hearing in this case having been held on * _____, and it appearing to the Court that

* _____ was served with a Citation and Notice of this hearing on *-----
-----, and was present at the hearing (or) the Court finds that the physical or mental condition of * _____ would be harmed by *his/her presence at the hearing, and further finds from the testimony:

1. That * _____ suffers from * _____, a condition or disability which totally impairs *his/her capacity to receive and evaluate information effectively and to make and communicate decisions concerning *his/her management of financial affairs or to meet essential requirements for *his/her physical health and safety.

2. That there are insufficient supports available to assist * _____ in overcoming such limitation and that there exists no less restrictive alternative mechanism for decision making than the appointment of a Emergency Plenary Guardian.

⁶Sections marked by asterisk (*) must be completed by counsel before Court presentation.

3. That based on the total incapacity of * _____ to receive and evaluate information effectively and to make or communicate decisions, a Plenary Guardian of the Person and a Plenary Guardian of the Estate are required on a Emergency basis.

NOW THEREFORE, based on the clear and convincing evidence supporting the foregoing findings, it is ORDERED, ADJUDGED and DECREED that * _____ be and hereby is adjudged a totally incapacitated person.

_____ is appointed Emergency Plenary Guardian of the Person of and _____ is appointed Emergency Plenary Guardian of the Estate of * _____.

The Emergency Plenary Guardian of the Person shall have authority to consent to the general care, maintenance and custody of * _____ without exception.

The Emergency Plenary Guardian of the Person shall assure that * _____ receives appropriate services and shall assist *him/her in developing self-reliance and independence.

The Emergency Plenary Guardian of the Estate shall have the authority to marshal all of * _____'s income and assets, pay *his/her bills and manage his/her financial affairs as fully as * _____ could do so *himself/herself if *he/she had not been adjudged incapacitated.

If there is a safe deposit box in the name of the incapacitated person alone or in the names of the incapacitated person and another or others, said safe deposit box shall not be entered by the Guardian except in the presence of a representative of the financial institution where the box is located or in the presence of a representative of the Orphans' Court Division. The representative present at the time of entry shall make or cause to be made a record of the

incapacitated person's property, and said record shall be filed with the Clerk of the Orphans' Court Division. None of the incapacitated person's property may be removed until after the aforesaid inventory is completed.

If the safe deposit box is jointly owned, five (5) days notice of the proposed entry shall be given to the other owners by the Guardian.

The appointment of the Emergency Plenary Guardian of the Person and Estate shall remain in effect until further Order of Court.

NO BOND REQUIRED ON EMERGENCY PLENARY GUARDIAN APPOINTMENT.

The testimony from this hearing on the emergency adjudication of incapacity and guardianship herein established shall be preserved and perpetuated for the hearing on the permanent adjudication of incapacity and guardianship.

* _____, an incapacitated person, has the right to appeal this Order of Court by filing exceptions with the Clerk of the Orphans' Court Division within ten (10) days of the date of this Order or to petition this Court for a hearing to review or terminate the adjudication of incapacity and guardianship herein established.

If * _____ was not present at the hearing on the adjudication of *his/her incapacity and the appointment of a guardian then Petitioner shall serve upon and read to * _____ the Statement of Rights attached to this Order of Court and marked as Exhibit A. Proof of service of the Statement or Rights shall be filed by the Guardian with the Clerk of the Orphans' Court within ten (10) days of the date of this Order.

BY THE COURT:

_____ J.

Appendix H: Statement of Rights

STATEMENT OF RIGHTS

AN ORDER HAS BEEN ENTERED BY A JUDGE OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, ORPHANS' COURT DIVISION, WHEREBY YOU HAVE BEEN ADJUDICATED AN INCAPACITATED PERSON AND UNABLE TO CARE FOR YOURSELF AND/OR MANAGE YOUR PERSONAL AFFAIRS. YOU HAVE THE RIGHT TO FILE EXCEPTIONS TO THE COURT'S DECISION WITHIN TEN (10) DAYS OF THE DATE OF THE COURT'S ORDER. IF YOU FAIL TO FILE EXCEPTIONS, THE ORDER WILL BECOME FINAL. IN THE EVENT THAT YOU FILE EXCEPTIONS AND THEY ARE DENIED, YOU HAVE A RIGHT TO FILE AN APPEAL TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE DENIAL OF THE EXCEPTIONS.

IN ADDITION, YOU MAY PETITION THE COURT AT ANY FUTURE TIME TO MODIFY OR TO TERMINATE THE GUARDIANSHIP IF THERE IS A CHANCE IN YOUR CAPACITY OR IF YOUR GUARDIAN FAILS TO PERFORM HIS/HER DUTIES IN ACCORDANCE WITH THE COURT'S ORDER.

IF YOU WISH TO APPEAL THE ORDER OR TO PETITION THE COURT TO MODIFY OR TERMINATE THE GUARDIANSHIP, YOU ARE ENTITLED TO BE REPRESENTED BY AN ATTORNEY. IF YOU DO NOT HAVE AN ATTORNEY, THE COURT MAY APPOINT ONE TO REPRESENT YOU. IF YOU CANNOT AFFORD AN ATTORNEY, THE SERVICES OF AN ATTORNEY WHOM THE COURT MAY APPOINT FOR YOU WILL BE PROVIDED AT NO COST TO YOU.

Appendix I: State Police Gun Control Notification

COMMONWEALTH OF PENNSYLVANIA

NOTIFICATION OF MENTAL HEALTH COMMITMENT

The Uniform Firearms Act, 18 PA. C.S. 6105(c)(4) specifies that it shall be unlawful for any person adjudicated as a incompetent or who has been involuntarily committed to a mental institution for inpatient care and treatment under Section 302, 303, 304 of the Mental Health Procedures Act of July 9, 1976 (P.L. 817, No. 143) to possess, use, manufacture, control, sell or transfer firearms. This would include adjudication of incapacity pursuant to 20 Pa. C.S.A. §5501. Pursuant to the Pennsylvania Mental Health Procedures Act, Section 109, notification shall be transmitted to the Pennsylvania State Police by the judge, mental health review officer or county mental health and mental retardation administrator within SEVEN days of the adjudication, commitment or treatment by first class mail to the Pennsylvania State Police, Attention: Firearm Unit, 1800 Elmerton Avenue, Harrisburg, PA 17100. NOTE: The envelope shall be marked "CONFIDENTIAL."

Place an "X" on either Involuntary Commitment or Adjudicated Incompetent

INVOLUNTARY COMMITMENT _____ ADJUDICATED INCOMPETENT _____

Date of Involuntary Commitment or Adjudicated Incompetent _____

INDIVIDUAL INFORMATION (INDIVIDUAL INVOLUNTARILY COMMITTED OR ADJUDICATED INCOMPETENT)

LAST NAME _____ FIRST _____ MIDDLE _____

JR., ETC. _____ MAIDEN NAME _____ ALIAS _____

DATE OF BIRTH _____ SOCIAL SECURITY NUMBER _____

SEX _____ RACE _____ HEIGHT _____ WEIGHT _____ HAIR _____ EYES _____

ADDRESS _____

NOTIFICATION BY (Please print name, address, area code, and phone number of agency or county court.)

County Submitting Notification _____

County Mental Health and Mental Retardation Administrator _____

County Mental Health Review Officer _____

Physician Certifying Necessity of Involuntary Commitment _____
(Required in accordance with Section 6105(c)(4) of the Uniform Firearms Act)

Hospital/Facility Providing Treatment/Address _____

Judge _____

SIGNATURE OF NOTIFYING OFFICIAL _____ DATE _____

Court Case Number _____ Date of Court Order _____

*******NOTIFICATION OF PHYSICIAN'S DETERMINATION THAT NO SEVERE
MENTAL DISABILITY EXISTS**

The physician shall provide signed confirmation of the determination of the lack of severe mental disability following the initial examination under Section 302(b) of the Mental Health Procedures Act and pursuant to the Uniform Firearms Act, Section 6111.1(g)(3). Notice shall be transmitted by the physician to the Pennsylvania State Police through the county mental health and mental retardation administrator or mental health review officer.

Name of Physician (Please print) _____

Appendix J-1: Consent of Guardian of Person

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE:)
)
) No. _____ of _____
*⁷ _____)
an alleged incapacitated person.

CONSENT OF PROPOSED GUARDIAN OF THE PERSON

I, * _____, do hereby consent to be appointed as the Guardian of the Person of * _____, an alleged incapacitated person, if so appointed by the Court.

I understand that if I am appointed as guardian, I will be serving for the benefit of * _____, an alleged incapacitated person, and I affirm that I will act in *his/her best interest at all times.

I further understanding that if I am appointed as guardian, I will be required to report to the Orphans' Court Division on my ward's personal affairs on at least an annual basis.

Dated: _____
Proposed Guardian

⁷ Sections marked by asterisk (*) must be completed by counsel before Court presentation.

Appendix J-2: Consent of Guardian of Estate

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: _____)
)
) No. _____ of _____
*8 _____)
an alleged incapacitated person.

CONSENT OF PROPOSED GUARDIAN OF THE ESTATE

I, * _____, do hereby consent to be appointed as the Guardian of the Estate of * _____, an alleged incapacitated person, if so appointed by the Court.

I understand that if I am appointed as guardian, I will be serving for the benefit of * _____, an alleged incapacitated person, and I affirm that I will act in *his/her best interest at all times.

I further understand that if I am appointed as Guardian of the Estate, I am accepting fiduciary responsibility for the financial affairs of * _____, an alleged incapacitated person, and will be required to report to the Orphans' Court Division with regard to those financial affairs on at least an annual basis.

Dated: _____

Proposed Guardian

⁸ Sections marked by asterisk (*) must be completed by counsel before Court presentation.

Appendix K: Notification of Retention of Lack of Counsel Under Rule 14, Section (3)

Date of Letter

The Honorable _____
Court of Common Pleas of Allegheny County
Orphans' Court Division Courtroom _____
1700 Frick Building
Pittsburgh, PA 15219

Re: *⁹ _____, an alleged incapacitated person
Docket Number: _____ of _____
Date of Hearing: _____

Dear Judge _____:

With regard to the above-captioned matter, and in accordance with Allegheny County Local Orphans' Court Rule 14, Section 3(b), this letter is to inform you that to the best of my knowledge, information and belief, * _____ is not presently represented by counsel in his/her own right in regard to the above referenced proceedings.

OR

With regard to the above-captioned matter, and in accordance with Allegheny County Local Orphans' Court Rule 14, Section 3(b), this letter is to inform you that to the best of my knowledge, information and belief, * _____ is presently represented by counsel in his/her own right in regard to the above referenced proceedings. An appearance has been entered on his/her behalf by * _____ whose address is * _____ and whose telephone number is * _____.

Very truly yours,

* _____
Attorney for Petitioner

⁹ Sections marked by asterisk (*) must be completed by counsel before Court presentation.

Appendix L: Petition and Orders for Electroconvulsive Therapy for a Person under Civil Commitment

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: _____)
 _____)
 *10 _____) No. _____ of _____
 _____)
 an alleged incapacitated person.

PETITION FOR ORDER OF COURT AUTHORIZING ELECTRO-CONVULSIVE THERAPY AS REQUIRED BY 55 PA. CODE §5100.54, ARTICLE VI 2(b) (4)

Your Petitioner, * _____, pursuant to 50 Pa. §§7102, 7104, and 7305, and 55 Pa. Code §5100.54, Article VI, 2 (b), hereby requests that this Court issue an Order authorizing electro-convulsive therapy for the Respondent, * _____ and in support of such request, avers and represents as follows:

1. * _____, is a * _____ year old patient at * _____, having been admitted to * _____ on * _____. Under an involuntary commitment order issued pursuant to Section * _____ of the Mental Health Procedures Act (50 P.S. §* _____).

2. By Order of Court dated * _____, the Respondent * _____ was found to be * _____, and was committed or recommitted to * _____ for involuntary in-patient care, for a period not to exceed * _____ days, pursuant to Section _____ of the Mental Health Procedures Act (50 P.S. §* _____). See Commitment Order and underlying Commitment Petition, attached as Exhibit 1.

¹⁰ Sections marked by asterisk (*) must be completed by counsel before Court presentation.

3. * _____'s domicile prior to admission to * _____ was * _____.

4. * _____ carries a diagnosis of * _____ which has been poorly responsive to treatment.

5. Over the last * _____, * _____ has had a number of treatment regimens of * _____ which have failed to significantly improve *his/her symptoms.

6. * _____'s recent symptoms have included refusing to * _____.

7. _____'s treatment team has recommended electro-convulsive therapy (ECT) to treat *his/her psychiatric condition, and it has been documented in *his/her record that all reasonable and less intensive treatment modalities have been considered, and that ECT represents the most effective therapy for * _____ at this time.

8. * _____, M.D., * _____'s treating psychiatrist who has experience and training related to ECT, has evaluated * _____ and has recommended ECT for * _____. See Notarized Statement by Doctor * _____, attached as Exhibit 2.

9. Attempts have been made to give * _____ a full explanation of the anticipated nature and duration of the ECT, and why the treating psychiatrist is recommending ECT.

10. * _____ has been told that *he/she has the right to accept or refuse ECT, and that if *he/she consents, *he/she has the right to revoke *his/her consent for any reason at any time prior to or between treatments.

11. * _____ has, to date, been unwilling and/or unable to discuss the recommended ECT treatment with Doctor * _____ or other * _____ clinical personnel, and has neither consented to or refused the recommended ECT.

12. Because of *his/her psychiatric condition, *_____ clinical personnel believes that Respondent, *_____ lacks the capacity to provide informed consent to the recommended medical treatment - i.e. ECT.

13. It is recommended by *_____ that the ECT be begun as soon as possible; the ECT would be performed at *_____.

14. Prior to initiating ECT for *_____, *_____, in accordance with standard procedure, would evaluate *_____, and would make an independent medical determination of the need for and duration of ECT. See Exhibit 2.

15. This Petition is brought pursuant to 55 Pa. Code § 5100.54, Article VI (2)(4), which provides that when a patient's psychiatrist determines that the patient could benefit from ECT, but also believes that the patient does not have the capacity to give informed consent to ECT, a Court order authorizing ECT must be obtained before ECT can be administered to the patient.

WHEREFORE, your Petitioner prays that this Court issue an Order authorizing the administration of ECT to the Respondent, *_____.

Respectfully submitted,

By _____
Counsel for Petitioner

Dated: _____

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE: * _____,)
Respondent) No.
)

ORDER OF COURT AUTHORIZING ELECTRO-CONVULSIVE THERAPY

NOW, this ____ day of _____, this Court having reviewed and considered the Respondent's current mental condition, the treatment that has been provided to Respondent to date and the results of such treatment, and the recommendation by &his/her treatment team and treating psychiatrist for electro- convulsive therapy, and having found that Respondent, due to a psychiatric condition which significantly impairs *his/her capacity to receive information effectively and to make and communicate decisions concerning *his/her medical and psychiatric treatment is unable to make or communicate an informed decision regarding treatment by electro-convulsive therapy, this Court, in accordance with 55 Pa. Code §5100.54, Article VI 2(b)(4), hereby authorized _____ to provide electro-convulsive therapy to Respondent, in accordance with their medical judgment, for a period not to exceed days from the date of this Order.

BY THE COURT:

_____ J.

CHAPTER XV. ADOPTIONS

ORPHANS COURT DIVISION RULE 15 (ADOPTION)

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ORPHANS COURT DIVISION RULE 15

RULE 15. ADOPTION

Sec. 1. Venue.

A proceeding for voluntary relinquishment, involuntary termination of parental rights, confirm consent to adoption, or adoption may be brought in the County of Allegheny if the parent or parents or the adoptee or person or persons who have filed a report of intent to adopt, reside in Allegheny County, or if an office of an agency having custody of or having placed the adoptee is located therein. Such a proceeding may also be brought with leave of Court in Allegheny County if the adoptee formerly resides in Allegheny County.

Sec. 2. Parties.

Any individual may be adopted, regardless of his age or residence. Any individual may become an adopting parent. Parent includes adoptive parent.

Sec. 3. Voluntary Relinquishment. Relinquishment to Agency.

Petition.

- (a) A petition of a parent or parents for permission to relinquish forever all parental rights and duties with respect to a child under the age of eighteen years who has been in the care of an agency for a minimum period of three (3) days, or, whether or not the agency has the physical care of the child, the agency has received a written notice of the present intent to transfer to it custody of the child, executed by the parent, shall contain the following information:
- (1) The name and address of petitioner and identity, i.e., parent.
 - (2) The name, address, age, racial background and religious affiliation of the parent or parents, and all alleged parents and any deceased parent.
 - (3) The marital status of the mother as of the time of birth of the child and during one (1) year prior thereto, and, if the mother has ever been married, the name of her husband or husbands, and her maiden name and how prior marriages were terminated;
 - (4) The name, age, date of birth, racial background, sex and religious affiliation of the child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
 - (5) The name and address of the agency having care of the child;

- (6) The date when the child was placed with the agency;
- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the mother of the child was married within one (1) year prior to the birth of the child but identifies the natural father as a person other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);
- (9) The date on which the parent has executed a written notice of the present intent to transfer to the agency custody of the child, if said notice was executed;
- (10) The reasons for seeking relinquishment.
- (11) If Petitioner also seeks to terminate the parental rights of the putative father, then state whether or not the putative father has filed a petition to Voluntarily Relinquish his parental rights pursuant to 23 Pa. C.S.A. Section 2501 and 2503 and whether the putative father has filed an Acknowledgment of Paternity or Claim of Paternity pursuant to 23 Pa. C.S.A. Section 8302 or 8303.

The prayer shall be for permission to relinquish forever all parental rights and duties of the Petitioner with respect to the child and to award to the agency the custody of the child. The prayer may also be for permission to terminate the parental rights of the putative father pursuant to 23 Pa. C.S.A. Section 2503(d).

(b) Exhibits.

The petition shall have attached to it the following exhibits:

- (1) An original or certified birth certificate or certification of registration of birth of the child;
- (2) The written notice executed by the Petitioner to the agency of that parent's present intent to transfer to the agency custody of the child, if applicable;
- (3) The joinder of the agency having care of the child and the consent to the agency to accept custody of the child until such time as the child is adopted.
- (4) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of mother's previous election to resume maiden name, if applicable;

- (5) Original or certified copy of documentation from appropriate State Agency certifying Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed.

(c) Preliminary Decree and Hearing.

Upon presentation of the petition, the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten days after filing of the petition. Notice shall be given to the Petitioner. Notice of the hearing shall also be given to the other parent including any alleged natural father, to the putative father whose parental rights could be terminated pursuant to 23 Pa. C.S.A. Section 2503(d), and to the legal father (spouse of mother within during one (1) year prior to birth, if he is not identified as the natural father, and to the parents or guardians of a Petitioner who has not reached the age of 18 years. The Petitioner and an authorized representative of the agency (if agency is involved) shall be examined under oath at the hearing. The hearing shall be in private. The notices shall be in substantially the following forms, and Affidavit/Proof of Service of the required notices of hearing shall be filed with the Court at least five (5) days prior to the scheduled hearing.

(1) Notice to Petitioner of Hearing on Petition for Voluntary Relinquishment.

(Caption of Case)

TO: _____ (name of petitioner) _____
 MOTHER/FATHER/LEGAL FATHER OF _____ (adoptive's name) _____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital) _____, _____ (city) _____, _____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT _____ M. YOUR PRESENCE IS REQUIRED AT THE HEARING. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(2) Notice to the Other Parent and Legal Father.

(Caption of Case)

TO: _____ (other parent and/or legal father) _____
MOTHER/FATHER/LEGAL FATHER OF _____ (adoptee's name) _____,
BORN ON THE _____ DAY OF _____, _____, AT
_____ (hospital) _____, _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED BY (petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE/HE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT _____. M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

Name of Attorney
Address
Telephone Number

(3) Notice to Putative Father whose rights may be terminated.

(Caption of Case)

TO: _____ (name of putative father) _____

FATHER OF _____(adoptee's name)_____, BORN ON THE _____
DAY OF _____, _____, AT _____(hospital)_____,
_____(city)_____, _____(county)_____,
_____(state)_____.

A PETITION HAS BEEN FILED BY (petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT __. M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

YOUR RIGHTS TO (adoptee's name) MAY ALSO BE TERMINATED IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa. C.S.A. SECTION 5103 AND YOU FAIL TO EITHER APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS TO (adoptee's name) OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(4) Notice to Parent(s) or Guardian of Petitioner who has not reached the age of 18 years.

(Caption of Case)

TO: _____ MOTHER/FATHER OF _____, MINOR
NATURAL FATHER/MOTHER OF _____(adoptee's name)_____,
BORN ON THE _____ DAY OF _____, _____, AT

_____ (hospital) _____, _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (name of minor natural parent) _____ HAS TO HIS/HER CHILD, _____ (adoptee's name) _____. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT _____. M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

Name of Attorney
Address
Telephone Number

(d) **Final Decree.** (1) A decree of termination in substantially the following form shall be submitted to the Court at the hearing:

And now, this ____ day of _____, the foregoing Petition For Voluntary Relinquishment of Parental Rights and duties to an Agency having been heard, upon consideration thereof and of the supporting testimony and it appearing that _____ desires to relinquish forever all parental rights with respect to _____, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore it is ordered, adjudged and decreed that all parental rights and duties of _____ with respect to said child are hereby terminated in accordance with The Adoption Act, 23 Pa. C.S.A. Section 2501 and 2503; said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings; and that custody of _____ is hereby awarded to _____.

_____, J

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa. C.S.A. Section 2503(d) then a decree in substantially the following form shall be submitted to the Court at the hearing:

And now, this ____ day of _____, the foregoing Petition For Voluntary Relinquishment of Parental Rights and duties to an Agency having been heard, upon consideration thereof and of the supporting testimony and it appearing that _____ desires to relinquish forever all parental rights with respect to _____, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore it is ordered, adjudged and decreed that all parental rights and duties of _____ with respect to said child are hereby terminated in accordance with The Adoption Act, 23 Pa. C.S.A. Section 2501 and 2503; said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father, _____ will not file a Petition to voluntarily relinquish his parental rights pursuant to The Adoption Act, 23 Pa. C.S.A. Section 2501 and 2503, he has not filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa. C.S.A. Section 5103, he has not appeared to object to the termination of his parental rights to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

Now, therefore it is ordered, adjudged and decreed that the parental rights of the putative father _____ with respect to said child are hereby terminated in accordance with 23 Pa. C.S.A. Section 2503 (d); said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings;

It is further ordered and decreed that custody of _____ is hereby awarded to _____.

_____, J.

- (e) **Right to file personal information.** At the time the decree of termination is transmitted to the parents whose rights are terminated, the Court shall advise that parent in writing of his or her right to place personal information on file with the Court and with the Department of Health pursuant to 23 Pa. C.S.A. Section 2905 (d) (relating to impounding of proceedings and access to records).

Sec. 4 Relinquishment to Adult Intending to Adopt Child.

Petition.

- (a) A petition of a parent for permission to relinquish forever all parental rights with respect to a child under the age of eighteen years who has been in the exclusive care of an adult or adults for minimum period of thirty days, and who have filed a Report of Intention to Adopt as required by the

Adoption Act, 23 Pa. C.S.A. Section 2531 shall contain the following information:

- (1) The name and address of the Petitioner and identity, i.e., parent;
- (2) The name, address, age, racial background, and religious affiliation of the parent or parents; and all alleged parents and any deceased parent;
- (3) The marital status of the mother as of the time of the birth of the child and during one (1) year prior thereto, and if the mother has ever been married, the name of her husband or husband's and/or maiden name and how prior marriages were terminated;
- (4) The name, age, date of birth, racial background, sex and religious affiliation of child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
- (5) The date when the Report of Intention to Adopt was filed;
- (6) The date when the child was placed with the adult or adults intending to adopt;
- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the child is born out of wedlock and the father has been identified, information as to the father shall be set forth as required in subparagraph (2);
- (9) If the mother of the child was married within one (1) year prior to the birth of the child but identified the natural father as a person other than this spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);
- (10) If the natural father is unknown, whether there has been any claim of paternity pursuant to 23 Pa. C.S.A. Section 5103.
- (11) The reasons for seeking relinquishment.
- (12) If Petitioner also seeks to terminate the parental rights of the putative father, then state whether or not the putative father has filed a Petition to Voluntarily Relinquish his parental rights pursuant to 23 Pa. C.S.A. Section 2502 and 2503 and whether the

putative father has filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa. C.S.A. Section 5103.

The prayer shall be for permission to relinquish forever all parental rights to the child and to award to the adult or adults intending to adopt, custody of the child. The prayer may also be for permission to terminate the parental rights of the putative father of the child pursuant to the 23 Pa. C.S.A. Section 2503 (d).

(b) **Exhibits.** The petition shall have attached to it the following

- (1) An original or certified birth certificate or certification of registration of birth of the child;
- (2) The separate consent of the adult or adults intending to adopt, to accept custody of the child;
- (3) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any previous elections to resume maiden name relating to the mother;
- (4) Original or certified copy of Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed.

(c) **Preliminary Decree and Hearing.** Upon presentation of the petition the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten (10) days after filing of the petition. Notice of the hearing shall be given to the Petitioner. Notice of the hearing shall also be given to the other parent, to the putative father whose parental rights could be terminated pursuant to 23 Pa. C.S.A. Section 2503 (d), to the legal father (spouse of mother within one year prior to birth), if he is not identified as the natural father, and to the parents or guardians of a Petitioner who has reached the age of 18. The Petitioner and an authorized representative from the agency (if agency is involved), shall be examined under oath at the hearing, the hearing shall be in private. The notices shall be in substantially the following forms and Affidavit/Proof of Service of the required notices of hearing shall be filed with the Court at least five (5) days prior to the scheduled hearing.

(1) Notice to Petitioner of Hearing on Petition for Voluntary Relinquishment.

(Caption of Case)

TO: _____ (name of Petitioner) _____

MOTHER/FATHER/LEGAL FATHER OF _____(adoptee's name)_____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital)_____, _____ (city)_____, _____(county)_____, _____(state)_____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT __.M. YOUR PRESENCE IS REQUIRED AT THE HEARING. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(2) Notice to the Other Parent and Legal Father.

(Caption of Case)

TO: _____(name of Petitioner)_____
MOTHER/FATHER/LEGAL FATHER OF _____(adoptee's name)_____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital)_____, _____(city)_____, _____(county)_____, _____(state)_____.

A PETITION HAS BEEN FILED BY (Petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT ____M., A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

Name of Attorney
Address
Telephone Number

(3) Notice to Putative Father whose rights may be terminated..

(Caption of Case)

TO: _____ (putative father) _____
FATHER OF _____ (adoptee's name) _____, BORN ON THE
_____ DAY OF _____, _____, AT _____
(hospital) _____, _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED BY (Petitioner's name) ASKING THE COURT TO PUT AN END TO ALL RIGHTS SHE HAS TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, at ____M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED.

YOUR RIGHTS TO (adoptee's name) MAY ALSO BE TERMINATED IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa. C.S.A. SECTION 5103 AND YOU FAIL TO EITHER APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS TO (adoptee's name) OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING.

YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(4) Notice to Parent(s) or Guardian of Petitioner who has not reached the age of 18 years.

(Caption of Case)

TO: _____ MINOR NATURAL MOTHER OF
_____ (adoptive's name) _____, BORN ON THE _____ DAY OF
_____, _____, AT _____
(hospital) _____, _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (name of minor natural parent) _____ HAS TO HIS/HER CHILD _____ (adoptive's name) _____. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH,

PENNSYLVANIA ON _____, AT ___ M. A COPY THE NOTICE TO PETITIONER IS ATTACHED.

Name of Attorney
Address
Telephone Number

(d) Final Decree.

(1) A decree of termination in substantially the following form shall be submitted to the Court at the Hearing:

And now, this ____ day of _____, the foregoing Petition for Voluntary Relinquishment of Parental Rights to an adult(s) intending to Adopt Child having come on to be heard, upon consideration thereof and of the supporting testimony and it appearing that _____, desires to relinquish forever all parental rights with respect to _____, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore, it is ordered, adjudged and decreed that the parental RIGHTS OF THE _____ with respect to said child are hereby terminated in accordance with 23 Pa. C.S.A. Section 2502 and 2503; said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings; and that custody of _____ is hereby awarded to _____.

_____, J.

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa. C.S.A. Section 2503 (d), then a decree in substantially the following form shall be submitted to the Court at the hearing:

And now, this ____ day of _____, the foregoing Petition for Voluntary Relinquishment of Parental Rights to an Adult(s) intending to Adopt Child having come on to be heard, upon consideration thereof and of the supporting testimony and it appearing that _____, desires to relinquish forever all parental rights with respect to _____, the Court finds the averments of facts in said petition are true and that the prayer of the petition should be granted;

Now, therefore, it is ordered, adjudged and decreed that the parental rights of _____ with respect to said child are hereby terminated in accordance with 23 PA C.S.A. Section 2502 and 2503; said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father _____ will not file a Petition to voluntarily relinquish his parental rights pursuant to 23 Pa. C.S.A. Section 2502 or 2503 of the Adoption Act, he has not filed an Acknowledgement of Paternity or Claim of Paternity pursuant to 23 Pa. C.S.A. Section 5103, he has not appeared to object to the termination of his parental right to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

Now, therefore, it is ordered, adjudged and decreed that the parental rights of the putative father _____ with respect to said child are hereby terminated in accordance with 23 Pa. C.S.A. Section 2503 (d); said termination to extinguish the power or right of said _____ to object to or receive notice of adoption proceedings;

It is further ordered and decreed that custody of _____ is awarded to _____.

_____, J.

Sec. 5. Alternative Procedure for Relinquishment. Petition to Confirm Consent to Adoption.

- (a) A petition of an intermediary (or adoptive parents where there is no intermediary) to confirm the consents to an adoption where the parent has executed a consent to adoption as required by 23 Pa. C.S.A. Section 2711 and has failed for period of forty (40) days after executing the consent to file or proceed with a petition for voluntary relinquishment of parental rights, shall contain the following information:
- (1) The name and address of the Petitioner and identity, i.e., parent, agency, intermediary;
 - (2) The name, address, age, racial background and religious affiliation of the parents, including the mother and father and all alleged parents and deceased parent;
 - (3) The marital status of the mother as of the time of birth of the child and during one (1) year prior thereto, and, if the mother has ever been married, the name of her husband or husbands, and her maiden name and how prior marriages were terminated;
 - (4) The name, age, date of birth, racial background, sex and religious affiliation of the child; the names of the child shall include all names by which the child has been identified on the birth certificate and any other legal document;
 - (5) The name and address of the agency, or the adopting parent(s) if non-agency adoption, having care of the child;
 - (6) The date when the child was placed with agency, or adopting parents if non-agency adoption;

- (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
- (8) If the mother of the child was married during one (1) year prior to the birth of the child but has identified the father as a person other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (2);
- (9) If the father is unknown, whether there have been any claims of paternity or acknowledgment of paternity filed pursuant to 23 Pa. C.S.A. Section 5103;
- (10) That the parent has executed a Consent to Adoption pursuant to 23 Pa. C.S.A. Section 2711 and has failed for a period forty (40) days after executing said consent to file or proceed with a petition for voluntary relinquishment of parental rights.
- (11) If a putative father's rights are being terminated, pursuant to 23 Pa. C.S.A. 2504(c), that said putative father will not execute a consent to adoption as required by Section 2711 and has not filed an acknowledgement of paternity or claim of paternity pursuant to 23 Pa. C.S.A. Section 5103;
- (12) That the agency, or the adopting parent(s) if a non-agency adoption, agree to accept custody of the child until such time as the child may be adopted;
- (13) The reasons for seeking relinquishment.

The prayer shall request the Court to Confirm the consent to adoption and to terminate the parental rights of that parent to the child and to award custody to either the agency or, in the case of a non-agency adoption, to the adults intending to adopt. If the rights of the putative father are not to be terminated pursuant to 23 Pa. C.S.A. Section 2504(c), the prayer shall also request same.

(b) **Exhibits.** The petition shall have attached to it the following

- (1) The joinder, if obtainable, of a parent who is not a petitioner;
- (2) An original or certified copy of the birth certificate or certification of registration of birth of the child;
- (3) The separate consent of the agency, or of the adult or adults intending to adopt, to accept custody of the child until such time as the child may be adopted;

(4) Original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any previous elections to resume maiden name relating to the mother;

(5) If the natural father is unknown or if the rights of the putative father are to be terminated pursuant to 23 Pa. C.S.A. Section 2504(c), the original or certified copy of documentation from the appropriate state agency certifying that no Acknowledgment of Paternity or Claim of Paternity has been filed.

(6) The original Consent signed by the parent pursuant to 23 Pa. C.S.A. Section 2711.

(c) **Preliminary Decree and Hearing.** Upon presentation of the petition the Court, by preliminary decree, shall fix a time for hearing which shall be not less than ten (10) days after filing of the petition. Notice shall be given to the parent(s) whose rights are to be terminated, the other parent (including any alleged father), the putative father whose rights could be terminated pursuant to 23 Pa. C.S.A. Section 2504(c), to the legal father if he has not been identified as the father, and to the parent(s) or guardian(s) of a natural parent who has not reached the age of 18 years.

Affidavit/Proof of the required notice of hearing on termination of parental rights shall be filed with Court at least five (5) days prior to the scheduled hearing.

The Petitioner unless otherwise permitted by the Court, and the witnesses to the Consent executed pursuant to Section 2711 of the Adoption Act, shall also appear unless:

- (1) The signatures of the parent and witnesses are notarized; or
- (2) One of the witnesses to the Consent is an attorney; or
- (3) One of the witnesses to the Consent is a representative of a licensed adoption agency or child welfare agency representative.

(1) Notice to the Parent whose rights are being terminated.

(Caption of Case)

TO: _____ (name of parent) _____
 MOTHER/FATHER/LEGAL FATHER OF _____ (adoptive's
 name) _____, BORN ON THE _____ DAY OF _____,
 _____, AT _____ (hospital) _____,
 _____ (city) _____, _____ (county) _____,
 _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD, (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT __. M. A COPY OF THE NOTICE TO PETITIONER IS ATTACHED. YOUR ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE HEARING WILL GO ON WITHOUT YOU AND YOUR RIGHTS TO YOUR CHILD MAY BE ENDED BY THE COURT WITHOUT YOUR BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh, PA 15219

(412) 261-2088

Name of Attorney
Address
Telephone Number

(2) Notice to the Other Parent of Hearing on Petition to Confirm consent and Terminate Parental Rights.

(Caption of Case)

TO: _____(name of parent)_____
MOTHER/FATHER/LEGAL FATHER OF _____(adoptee's
name)_____, BORN ON THE _____ DAY OF _____,
_____, AT

_____ (hospital) _____,
(city) _____, _____ (county) _____,
_____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (parent's name) HAS TO YOUR CHILD, _____ (name of Adoptee) _____. THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____ AT __.M. A COPY OF THE NOTICE TO _____ (parent's name) _____ IS ATTACHED HERETO.

Name of Attorney
Address
Telephone Number

(3) Notice to Putative Father whose rights may be terminated pursuant to 23 Pa. C.S.A. Section 2504(c).

(Caption of Case)

TO: _____ (putative father) _____
FATHER OF _____ (adoptee's name) _____, BORN ON THE
_____ DAY OF _____, _____, AT _____
(hospital) _____, _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (parent's name) _____ HAS TO YOUR CHILD, _____ (name of Adoptee) _____. THE COURT HAS SET A HEARING TO CONSIDER ENDING HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT __.M. A COPY OF THE NOTICE TO _____ (parent's name) _____ IS ATTACHED HERETO.

THIS PETITION ALSO ASKS THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD _____ (adoptee's name) _____. YOU ARE WARNED

THAT IF YOU FAIL TO FILE EITHER AN ACKNOWLEDGEMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO 23 Pa. C.S.A. SECTION 5103 AND YOU FAIL TO APPEAR AT THIS HEARING FOR THE PURPOSE OF OBJECTING TO THE TERMINATION OF YOUR RIGHTS OR YOU FAIL TO FILE A WRITTEN OBJECTION TO THE TERMINATION OF YOUR RIGHTS WITH THE COURT PRIOR TO THIS HEARING, THE HEARING WILL GO ON WITHOUT YOU BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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The Allegheny County Bar Association 920 City-County Building
Pittsburgh, Pennsylvania 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(4) Notice to Parent(s) or Guardian(s) of Parent who has not reached the age of 18 years.

(Caption of Case)

TO: _____ MINOR NATURAL MOTHER OF _____ (adoptee's name) _____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital) _____, _____ (city) _____, _____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (name of minor natural parent) _____ HAS TO (HIS/HER) CHILD _____ (adoptee's name). THE COURT HAS SET A HEARING TO CONSIDER ENDING (HIS/HER) RIGHTS TO (HIS/HER) CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET,

PITTSBURGH, PENNSYLVANIA ON _____, AT __.M. A COPY OF THE NOTICE TO _____(parent's name)_____ IS ATTACHED HERETO.

Name of Attorney
Address
Telephone Number

(d) **Final Decree.** A decree of termination in substantially the following form shall be submitted to the Court at the Hearing:

(1) DECREE

AND NOW, this ____ day of _____, the foregoing Petition to Confirm Consent to Adoption having come on to be heard, upon consideration thereof and the consent attached thereto executed by _____(name of parent)_____, (mother/father) of (adoptee's name) _____, and it appearing that _____(name of parent) has failed for a period in excess of forty (40) days after executing the aforesaid consent to file or proceed with a Petition for Voluntary Relinquishment of Parental Rights, the Court finds that the facts averred in said petition are true and that the prayer of the petition should be granted;

NOW, THEREFORE IT IS ORDERED AND DECREED that the Consent to Adoption of _____(adoptee's name)_____ executed by (parent's name) _____ be and is hereby confirmed in accordance with the Adoption Act, 23 Pa. C.S.A. Section 2504 and the parental rights of _____(parent's name) _____ to _____(adoptee's name)_____ be and are hereby terminated; said termination to extinguish the power or the right of said natural parent to object to or receive notice of adoption proceedings;

AND IT IS FURTHER ORDERED AND DECREED that custody of _____(adoptee's name)_____ be and is hereby awarded to _____ agency name, or adopting parent(s) name(s) if non-agency adoption) _____.

BY THE COURT:

_____ J.

(2) If the rights of the putative father will also be terminated pursuant to 23 Pa. C.S.A. Section 2504(c), then a decree in substantially the following form shall be submitted to the Court at the hearing:

AND NOW, this _____ day of _____, the foregoing Petition to Confirm Consent to Adoption having come on to be heard, upon consideration thereof and the consent attached thereto executed by _____ (parent's name) _____ (mother/father) _____ of _____ (adoptive's name), and it appearing that _____ (parent's name) has failed for a period in excess of forty (40) days after executing the aforesaid consent to file or proceed with a Petition for Voluntary Relinquishment of Parental Rights, the Court finds that the facts averred in said petition are true and that the prayer of the petition should be granted:

NOW, THEREFORE IT IS ORDERED AND DECREED that the Consent to Adoption of _____ (adoptive's name) _____ executed by _____ (parent's name) _____ be and is hereby confirmed in accordance with the Adoption Act, 23 Pa. C.S.A. Section 2504 and the parental rights of _____ (parent's name) to _____ (adoptive's name) _____ be and are hereby terminated; said termination to extinguish the power or the right of said natural parent to object to or receive notice of adoption proceedings;

Furthermore, the Court finds that the putative father _____ (putative father's name) will not execute a consent to an adoption as required by 23 Pa. C.S.A. Section 2711, has not filed an Acknowledgment of Paternity or Claim of Paternity pursuant to 23 Pa. C.S.A. Section 5103, has not appeared to object to the termination of his parental rights to said child, and has not filed a written objection with this Court to the termination of his parental rights to said child;

NOW, THEREFORE, it is ORDERED AND DECREED that the parental rights of the putative father, _____ (putative father's name) _____, with respect to said child are hereby terminated in accordance with 23 Pa. C.S.A. Section 2504(c); said termination to extinguish the power or right of said _____ (putative father's name) _____ to object to or receive notice of Adoption proceedings;

IT IS FURTHER ORDERED AND DECREED that custody of _____ (adoptive's name) _____ is hereby awarded to _____ (agency, or adopting parent's name(s) if non-agency adoption).

BY THE COURT:

_____ J.

Sec. 6. Involuntary Termination of Parental Rights Petition.

- (a) A petition for involuntary termination of parental rights with respect to a child under the age of 18 years may be filed by any of the following:
- (1) Any parent when termination is sought with respect to another parent;
 - (2) An agency; or
 - (3) The individual having custody of or standing in loco parentis to the child and who has filed a Report of Intention to Adopt.
- (b) The petition shall contain the following information:
- (1) The name and address of the petitioner and identity, i.e., parent, agency or other as permitted by the statute;
 - (2) The name, address, age, racial background and religious affiliation of the parent or parents and all alleged parents or person and any deceased parent;
 - (3) The marital status of the mother as of the time of the birth of the child and during one (1) year prior thereto, and if the mother has ever been married, the name of her husband or husbands and/or maiden name and how prior marriages were terminated;
 - (4) The name, age, date of birth, racial background, sex and religious affiliation of child; the name of the child shall include all names by which child has been identified on the birth certificate and any other legal document;
 - (5) The date when the Intention to Adopt was filed;
 - (6) The date when the child was placed with the adult or adults intending to adopt;
 - (7) When the child is born out of wedlock, whether the mother and father of the child intend to marry;
 - (8) If the child is born out of wedlock and the father has been identified, information as to the father shall be set forth as required in subparagraph (1);
 - (9) If the mother of the child was married within one (1) year prior to the birth of the child but identified the natural father as the person

other than her spouse, then the information as to the spouse (legal father) of the mother shall be set forth as required in subparagraph (1);

(10) If the natural father is unknown, whether there has been any acknowledgement of paternity pursuant to 23 Pa. C.S.A. Section 5103;

(11) The grounds for involuntary termination;

(c) The prayer shall be for a decree terminating forever all parental rights with respect to the child and awarding custody of the child to the petitioning agency or individual.

(d) **Exhibits.** The petition shall have attached to it the following exhibits:

(1) An original or certified birth certificate or certification of registration of birth of the child;

(2) The separate consent of the adult or adults intending to adopt, to accept custody of the child, or agency intending to accept custody;

(3) The original or certified copy of any previous divorce decrees relating to the mother and original or certified copy of any elections to resume maiden name relating to the mother;

(4) The original or certified copy of Acknowledgement of Paternity or Claim of Paternity indicating that no acknowledgement of paternity or claim of paternity has been filed;

(5) A copy of the Court Order which adjudicated the child dependent, if child is currently under legal custody of Children and Youth Services or other child welfare services;

(6) If child was previously adopted, attach a certified copy of adoption decree.

(e) Preliminary Decree and Hearing.

Upon presentation of the petition the Court shall direct that it be filed and shall fix a date for hearing thereon not less than ten (10) days after the date of filing the petition. At least ten (10) days' notice of the hearing on the petition shall be given to the parent or parents, putative father, or parent of a minor parent whose rights are to be terminated and to the natural or appointed guardian of any parent or parents who is or are under the age of eighteen (18) years, by personal service or by registered mail to his or their last known address. Where personal service is not obtainable and the return receipt of the registered or certified mail does not bear the signature of the person to be notified, notice shall be given under appropriate Order of Court in accordance

with Section 1(c) and (d) of Rule 12 of the Court, the last published notice to be at least ten (10) days prior to the date of hearing, the Court shall make a finding relative to the pertinent provisions of 23 P.A.C.S. Section 2531 of the Adoption Act, which finding shall be incorporated in a decree of termination of parental rights. The hearing may be private. Affidavit/Proof of Service of the required notices of hearing on termination of parental rights shall be filed with the Court at least five (5) days prior to the scheduled hearing.

(f) Notices.

(1) Notice to parent whose rights are being terminated of hearing on petition for involuntary termination of parental rights.

IN RE: ADOPTION OF _____, a minor.

No. _____ of _____ in the ORPHANS' COURT DIVISION OF THE ORPHANS' COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

TO: _____ (parent's name) _____
MOTHER/FATHER OF _____ (minor's name) _____, A MINOR,
BORN _____ (IN) _____ (city) _____,
_____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS YOU HAVE TO YOUR CHILD _____ (insert name of child). THE COURT HAS SET A HEARING TO CONSIDER ENDING YOUR RIGHTS TO YOUR CHILD. A HEARING WILL BE HELD IN THE ORPHANS' COURT DIVISION, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH, PENNSYLVANIA ON _____, AT _____, ____M. YOU ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE HEARING WILL GO ON WITHOUT YOU AND YOUR RIGHTS TO YOUR CHILD MAY BE ENDED BY THE COURT WITHOUT YOUR BEING PRESENT. YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LAWYER REFERRAL SERVICE
The Allegheny County Bar Association 920 City-County Building
Pittsburgh, PA 15219
(412) 261-2088

Name of Attorney
Address
Telephone Number

(2) Notice to the other parent of hearing on petition to terminate parental rights.

(Caption of Case)

TO: _____ (name of other parent) _____
MOTHER/FATHER/LEGAL FATHER OF _____ (adoptive's name) _____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital) _____, _____ (city) _____, _____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (parent's name), HAS TO YOUR CHILD _____ (name of adoptee). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHTS TO YOUR CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH PENNSYLVANIA ON _____, _____.M. A COPY OF THE NOTICE TO _____ (parent's name) IS ATTACHED HERETO.

Name of Attorney
Address
Telephone Number

(3) Notice to parent(s) or guardian(s) of parent who has not reached the age of 18 years.

(Caption of Case)

TO: _____ (name) _____ MOTHER/FATHER OF _____ (adoptive's name) _____, BORN ON THE _____ DAY OF _____, _____, AT _____ (hospital) _____, _____ (city) _____, _____ (county) _____, _____ (state) _____.

A PETITION HAS BEEN FILED ASKING THE COURT TO PUT AN END TO ALL RIGHTS _____ (name of minor natural parent), HAS TO (HIS/HER) CHILD _____ (adoptive's name). THE COURT HAS SET A HEARING TO CONSIDER ENDING HIS/HER RIGHT TO HIS/HER CHILD. THAT HEARING WILL BE HELD IN ORPHANS' COURT, 1700 FRICK BUILDING, 437 GRANT STREET, PITTSBURGH PENNSYLVANIA ON _____, _____.M. A COPY OF THE NOTICE TO _____ (parent's name) IS ATTACHED HERETO.

Name of Attorney
Address
Telephone Number

(g) **Final Decree.** A decree of termination in substantially the following form shall be submitted to the Court at the hearing:

DECREE

AND NOW, this ____ day of _____, the foregoing Petition for involuntary Termination of Parental Rights having come on to be heard, upon consideration thereof and of the supporting testimony and of the record, the Court finds that the facts averred in said Petition are true and the (name of parent) _____ (mother/father) (state grounds for termination with reference to minor) _____

_____.

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that all parental rights of _____ (parent's name) _____, to the minor _____ (minor's name), are hereby terminated, said termination to extinguish the power or the right of _____ (parent's name) _____, to object to or receive notice of adoption proceedings, and that the custody of the minor, _____ (minor's name), is hereby awarded to the _____ (agency, intermediary; or adoptive parent(s) _____).

BY THE COURT

_____ J.

Sec. 7. Report of Intention to Adopt. Investigation.

(a) Every person now having or hereafter receiving or retaining custody or physical care of any child under the age of eighteen (18) years, other than that person's own child, grandchild, stepchild, brother or sister of the whole or half blood, or niece or nephew by blood, or adoption, for the purpose or with the intention of adopting the child, shall file a Report

relating thereto in the office of the Clerk of the Orphans' Court Division of the Court of Common Pleas of Allegheny County and shall contain the information required by Sec. 2531 of the Adoption Act. The Report shall be verified by affidavit and be filed within thirty (30) days of the date when the child came into the custody or physical care of the person filing the Report.

Attach copy of preplacement report or homestudy (§2530-2531 (7)). State whether birth mother has received counseling and where (§2505-2531 (5)).

- (b) When a Report of Intention to Adopt has been filed, the case will be referred to the Adoption Department for investigation, which shall report on matters alleged in the Report and any other matters that may affect the welfare of the child, including the matters set forth in Sec. 2535 of the Adoption Act.
- (c) The Report of Intent to Adopt shall substantially conform with Form A set forth in the Appendix.

Sec. 8. Report of Intermediary.

- (a) Intermediary - an intermediary is defined as any person or persons or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement. If more than one person or agency acts in this capacity, they shall be identified as co-intermediaries.
- (b) Each intermediary who or which has arranged the adoption placement of any child under the age of 18 years shall within six (6) months after filing the Report of Intention to Adopt, make and file with the Clerk of the Orphans' Court a written report under oath, and shall thereupon forthwith notify in writing the adopting parent or parents of the fact that the report has been filed and the date thereof.
- (c) Contents of Report. The Report of Intermediary shall set forth the following information as required by 23 Pa. C.S.A. §2533:
 - (1) The name and address of the intermediary.
 - (2) The name, sex, racial background, age, date and place of birth and religious affiliation of the child.

- (3) The date of the placement of the child with the adopting parent or parents.
- (4) The name, racial background, age, marital status as of the time of birth of the child and during one (1) year prior thereto, and religious affiliation of the parents of the child and the husband of the natural mother if he was her husband within one (1) year of the birth of the child.
- (5) Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the child was entered.
- (6) The residence of the parents or parent of the child, if there has been no such decree of termination.
- (7) A statement that all consents required by Section 2711 of the Adoption Act (relating to consents necessary to adoption) are attached as exhibits on the basis upon which the consents are not required.
- (8) An itemized accounting of moneys and consideration paid or to be paid to or received by the intermediary or to or by any other person or persons to the knowledge of the intermediary by reason of the adoption placement.
- (9) A full description and statement of the value of all property owned or possessed by the child.
- (10) A statement that no provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the child.
- (11) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor.
- (12) A statement that medical history information was obtained and if not obtained, a statement of the reason therefor.
- (13) The report of the intermediary shall have attached to it the following exhibits:
 1. An original or certified copy of the birth certificate or certification of registration of birth of the child if it can be obtained.

2. A certified copy of any decree of termination of parental rights or parental rights and duties made by a court order other than the court in which the petition for adoption will be filed.
 3. A certified copy of the acknowledgement of paternity filed from the appropriate state agency that no claim or acknowledgement of paternity has been filed by the putative father, or a statement that the same has been previously filed with the Court.
 4. Where applicable, a copy of the approved Interstate Compact Placement Request (ICPC-100-A).
- (d) No intermediary shall place a child in the physical care or custody of a prospective adoptive parent or parents unless a home study containing a favorable recommendation for placement of a child with the prospective parent or parents has been completed within three (3) years prior thereto and which has been supplemented within one (1) year prior thereto. A home study shall be conducted by local public child care agency, an adoption agency or a licensed social worker designated by the Court to perform such study. See 23 Pa. C.S.A. §2530.
- (e) Where a home study required under 23 Pa. C.S.A. is in process but not yet completed, an intermediary may make an interim placement provided the requirements of 23 Pa. C.S.A. 2530(c) are met.
- (f) The intermediary in making a placement may honor the preference of the natural parents as to the religious faith in which the adoptive parents intend to rear the adoptive child. However, no person shall be denied the benefits of a placement because of a religious belief in the use of spiritual means or prayer for healing, 23 Pa. C.S.A. §2725.
- (g) Report of the intermediary shall substantially conform with the form set forth in Form B in the Appendix to this Rule.

Sec. 9. Petition for Adoption

- (a) The petition for adoption shall contain the following information:
- (1) The full name, residence, marital status, age, occupation, religious affiliation and racial background of the adopting parent or parents and their relationship, if any, to the adoptee.
 - (2) A statement that a report of intention to adopt under 23 Pa. C.S.A. §2531, a report of intermediary under 23 Pa. C.S.A. §2530 and a

homestudy and preplacement report under 23 Pa. C.S.A. §2530 have been filed, if required.

- (3) The name and address of the intermediary, if any.
 - (4) The full name of the adoptee and the fact and length of time of the residence of the adoptee with the adopting parent or parents.
 - (5) If there is no intermediary or if no report of the intermediary has been filed or if the adoptee is over the age of 18 years, all vital statistics and other information enumerated and required to be stated of record by 23 Pa. C.S.A. §2533, so far as applicable.
 - (6) If a change in name of the adoptee is desired, the new name. When the person to be adopted has attained age eighteen (18) and a change of name is desired, Petitioner must submit evidence showing compliance with the law relating to change of name before a decree will be made.
 - (7) That all consents required by 23 Pa. C.S.A. §2711 (relating to consents necessary to adoption) are attached as exhibits or the basis upon which such consents are not required, or a statement that same have been previously filed with the Court.
 - (8) That it is the desire of the petitioner or the petitioners that the relationship of parent and child be established between the petitioner or petitioners and the adoptee.
 - (9) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor and an allegation of the efforts made to obtain the certificate with a request that the Court establish a date and place of birth at the adoption hearing on the basis of the evidence presented.
- (b) The petition for adoption shall contain the following exhibits:
- (1) The consent or consents required and executed in accordance by Pa. C.S.A. §2711 (relating to consents necessary to adoption). If the consents are executed before a notary public then one (1) witness to the consent shall be required to appear at the hearing; otherwise at least one (1) of the witnesses to said consent shall appear at the hearing. The consents need not be attached if they were previously filed with the Court, in which case, the Petition shall so state.

- (2) Original or certified copy of birth certificate or certification of registration of birth of the child, unless previously filed with the record.
 - (3) Original or certified copy of marriage certificate of adoptors.
 - (4) Divorce decree of both of adoptors, and election to resume maiden name, if applicable.
 - (5) Death certificate of former spouse of both adoptors, if applicable.
 - (6) Death certificate of natural parents, if applicable.
 - (7) Original or certified copy of divorce decree, if any, of natural parents when petitioner is a step-parent.
- (c) The petition shall substantially conform with Form C set forth in the appendix.
- (d) A completed Certificate of Adoption Form H 105.091 shall be filed with the Court by Petitioners at the time the Petition for Adoption is filed.
- (e) Hearing on Petition for Adoption -- Disclosure of Fees and Costs.

The Court shall fix a time and a place for hearing. The hearing shall be private or in open Court as the Court deems appropriate.

At the hearing there shall be offered in evidence a report by petitioner, certified by counsel for the petitioner, setting forth the amount of fees and expenses paid or to be paid to counsel and any other fee, costs and expenses paid or to be paid to an intermediary or any other person or institution, in connection with the adoption.

- (f) Requirements and Form of Decree

If satisfied that the statements made in the Petition for Adoption are true, that the welfare of the person proposed to be adopted will be promoted by the requested adoption, and that all requirements of the Adoption Act have been met, the Court shall enter a decree so finding and directing that the person proposed to adopted shall have all the rights of a child and heir of the adopting parent or parents, and shall be subject to the duties of a child to him, or them. In any case in which the petition is withdrawn or dismissed, the Court shall enter an appropriate order in regard to the custody of the child.

Sec. 10. Name of Adoptee

If requested by the petitioner, the decree may provide that the adoptee shall assume the surname of the adopting parent or parents and any given first and middle names that may be chosen. If the adoptee is over age 18 and desires a change in name evidence must be submitted showing compliance with the law relating to change of name before a decree will be made.

Sec. 11. Impounding of Proceedings.

All petitions, exhibits, reports, notes of testimony, decrees, and other papers pertaining to any proceeding under the Act shall be kept in the files of the Court as a permanent record thereof and withheld from inspection. Information in those records may only be made available under certain circumstances set forth in 23 Pa. C.S.A.

Section 2905. Requests for information shall be by petition or letter to the Administrative Judge of the Orphans' Court Division.

Sec. 12. Docket Entries.

Upon the filing of any decree under the Adoption Act, the Clerk shall enter on the docket an entry showing the date of the decree, the name of the adopting parent or parents and the post-adoption name of the adoptee. Information identifying the natural parents shall not be entered on the docket.

Sec. 13. Certificate of Adoption.

After the decree is entered the Clerk shall issue to the adopting parent or parents a certificate reciting that the Court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in the Commonwealth, as evidence of the fact that the adoption has been decreed.

It shall be the responsibility of counsel for the adopting parent to inform other Divisions of this Court of the entry of an adoption decree if this information is relevant to proceedings in other Divisions. It shall be the responsibility of counsel for the adopting parent to also complete and file the Division of Vital Records forms necessary to amend the adoptee's birth certificate.

Sec. 14. Other Requirements.

Medical history information shall be as set forth in Sec. 2902 of the Adoption Act, counseling shall be as set forth in Sec. 2505, and representation for child and parent shall be as set forth in Sec. 2313.

Sec. 15. Definitions.

1. Putative Father - The alleged or reputed father that is not the legal father of a child born out of lawful wedlock. A putative father shall include one who has filed a claim of paternity as provided in Pa. 23 C.S.A. §5103 prior to the institution of proceedings.

2. Legal Father - The spouse of the mother during the one (1) year immediately preceding the birth of the proposed adoptee.

Appendix Form A

**IN THE ORPHANS' COURT DIVISION COURT OF COMMON PLEAS OF
ALLEGHENY COUNTY, PENNSYLVANIA**

In Re Adoption of _____)
)
) No. _____ of _____
)

REPORT OF INTENTION TO ADOPT

1. PROPOSED ADOPTEE

Name of Child _____ Sex _____

Age, Date and Place of Birth _____

Racial Background _____ Religious Affiliation _____

The Birth Mother has (has not) had counseling relative to this adoption at _____.

2. PERSON(S) INTENDING TO ADOPT THE CHILD

Names and Ages of Adopting Parents _____

Maiden Name of Adopting Mother _____

Address _____

Religious Affiliation _____

Date Child was Received _____

Other Adoptions _____

Adoptive Parent preplacement report or homestudy completed by _____

On _____.

Attach a copy of the homestudy.

3. STATEMENT OF CIRCUMSTANCES SURROUNDING PROPOSED ADOPTING PARENT(S)

Include facts as to economic status, income, employment, home ownership, education, length of marriage, etc.

4. AGENCY OR INTERMEDIARY, AND AMOUNT OF FEE OR EXPENSES PAID OR TO BE PAID TO AGENCY OR INTERMEDIARY.

Name _____

Address _____

Amount of fees or expenses paid or to be paid to agency or intermediary:

\$ _____

We hereby certify that we now have custody of the child and intend to present a petition for adoption.

We acknowledge that we have been advised or know and understand that the natural parent(s) may revoke the consent to the adoption of this child until a Court has entered a decree terminating the parental rights and unless a decree terminating the parental rights has been entered, the natural parent may revoke the consent until the Court enters the final adoption.

Adoptive Father

Adoptive Mother

Date _____

A F F I D A V I T

Commonwealth of Pennsylvania)
)
County of Allegheny) SS:
)

Before me, the undersigned authority, personally appeared _____
who being duly sworn according to law depose(s) and say(s) that the averments set forth in the
foregoing Report of Intention to Adopt are true and correct.

Sworn to and subscribed before me
to this ____ day of _____.

If no decree of termination of parental rights has been entered, indicate current address:

5. Birth Father

Name _____ Age _____
Racial Background _____
Religious Affiliation _____ Marital Status: _____
At date of birth _____
During one year prior to date of birth _____

6. Legal Father (if applicable)

Name _____ Age _____
Racial Background _____
Religious Affiliation _____ Marital Status: _____
At date of birth _____
If no decree of termination of parental rights has been entered, indicate current address:

7. Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the adoptee was entered. Attach a certified copy of the decree, unless said decree was entered in the Court of Common Pleas of Allegheny County, Pennsylvania.

8. All consents required by 23 Pa. C.S.A. Sec. 2711 (relating to consents necessary to Adoption) are attached as Exhibits hereto. If said consents have previously been filed with the Court, or if said consents are not necessary, explain why:

9. Set forth an itemized accounting of moneys and consideration paid or to be paid to or received by the Intermediary by reason of the adoption placement:
-
-

10. Set forth an itemized accounting of money and consideration paid or to be paid to or received by any other person(s) to the knowledge of the Intermediary by reason of the adoption placement.

11. Set forth a full description and statement of the value of all property owned or possessed by the adoptee.

12. Have the provisions of the statute regulating the interstate placement of children been complied with regarding the placement of the adoptee?

A copy of the signed approval from the Administrator of the Interstate Compact on the Placement of Children (when applicable) is attached hereto.

13. The original or certified copy of the adoptee's birth certificate or certification of registration of birth (is attached) (has been previously filed with the Court). If same cannot be obtained, state the reason therefor:

14. The medical history information on the birthparents has been obtained and provided to the adoptive parents, with identifying information having been deleted. If the medical history information has not been obtained, state the reason therefor:

Intermediary

(names, address and dates)

His blood or legal relationship to the adoptee is _____

3. That _____, petitioner, is _____
years of age, having been born at _____ on _____
_____. she is of the _____ religion and of the
_____ race. She is presently employed by _____
_____, having an annual income of _____.

Her employers during the last 5 years were:

(names, address and dates)

Her blood or legal relationship to the adoptee, is _____

4. That Petitioner(s) (is) (are) married, single, divorced.
Petitioners were married on _____ at _____

5. Identify all previous marriages of either Petitioner and method of termination.

1.) That _____ was divorced at No. _____
 _____ Term, _____, _____ County, on _____

 (date)

2.) That _____ was divorced at No. _____
 _____ Term, _____, _____ County, on _____

 (date)

Attach an original or certified copy of any divorce decrees.

6. That Petitioner(s) (is) (are) the parent(s) of the following children (indicate age, other parent, residence, by whom supported, and if adopted. If adopted, state date, term and court:

7. That the Report of Intention to Adopt and the Report of Intermediary have been filed if required.

_____	_____	_____
(yes)	(not required)	(date filed)
_____	_____	_____
(yes)	(not required)	(date filed)

8. The name and address of the intermediary, if any, is _____

9. The name of the adoptee is _____, of the _____ sex.
 The adoptee is _____ years of age, having been born at _____ on _____

_____. The adoptee has resided with Petitioner(s) for _____, since _____.
(mos./yrs.) (date)

10. The petitioner(s) (is) (are) financially capable of supporting the adoptee, having an annual income of _____.

THE FOLLOWING PARAGRAPHS, NOS. 11 AND 12, BOTH INCLUSIVE, MUST BE COMPLETED IF NO REPORT OF INTERMEDIARY HAS BEEN FILED OR IF THE ADOPTEE IS OVER THE AGE OF 18. (Section 2701)

11. The petitioners have no knowledge of any money or thing of value, fees, expenses, or charges of any kind passing among or between them or any other person in connection with this adoption proceeding except:

(State fully if any exception.)

12. The adoptee's financial or property assets are as follows:

13. No provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the adoptee. A copy of the signed approval from the Administrators of the Interstate Compact on the Placement of Children (if applicable) is attached.

14. a.) The name of the natural mother of the adoptee is _____; her residence is _____; her age is _____; her racial background is _____; her religious affiliation is _____; her marital status at the time of the birth of the adoptee was _____. And her marital status during one (1) year prior thereto was _____.

b.) The name of the natural father of the adoptee is _____; his residence is _____; his age is _____; his racial background is _____; his religious affiliation is _____; his marital status at the time of the birth of the adoptee was _____.

c.) The name of the legal father of the adoptee is _____; his residence is _____; his age is _____; his racial background is _____; his religious affiliation is _____; his marital status at the time of the birth of the adoptee was _____.

15. The following required exhibits are herewith submitted:

- (a) An original or certified copy of the birth certificate or certification of birth of adoptee unless previously filed with Court, then state when.

(b) The consents required by Section 2711(a) of the Adoption Act unless if previously filed with Court, then state when.

16. There (has) (has not) been a decree of termination of parental rights or parental rights and duties. State date and docket number of termination. If termination is in a Court other than Court of Common Pleas of Allegheny County, attached certified copy of decree.

17. List the names, addresses and telephone numbers of four (4) references who have known petitioners for the last five years, include a clergy, family doctor and two (2) non-relatives.

1. _____
(clergy)

2. _____
(family physician)

3. _____
(non relative)

4. _____
(non-relative)

18. That it is the desire of the petitioner(s) that the relationship of parent and child be established between petitioner(s) and the adoptee.

19. That it is desired that the new name of adoptee be

20. That the parent(s) of the adoptee, (is) (are) not entitled to the benefits of the Soldiers' and Sailors' Act of 1949, as amended (50 U.S.C.A. 501).

21. Attached hereto are consents to adoption given by the adoptee, if over twelve years of age, and the adopting parent's spouse, unless he or she joins in the adoption petition.

22. Your petitioner(s) declare(s) that (he) (she) (they) will perform all the duties of parent(s) to such adoptee, and believe(s) that the welfare of the adoptee will be promoted by this adoption and therefore, pray your Honorable Court enter a decree that _____ shall be the legally adopted child and heir of petitioner(s) and that the name of said adoptee shall hereafter be _____.

Date _____

(Signatures of Petitioners)

A F F I D A V I T

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) ss
)
)

Before me, the undersigned authority, personally appeared _____

(Names of Petitioners)

who, being duly sworn, according to law, depose(s) and say(s) that he, she, they are the petitioner(s) in the above entitled proceedings and that the averments set forth in the foregoing petition are true and correct.

Sworn to and subscribed before

me this _____ day of _____.

(Notary Public)

My Commission Expires:

