

## Pennsylvania Orphans' Court Rules

### Rule 1.3. Definitions

The following words and phrases when used in these Rules shall have the following meanings, respectively, unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the Chapter in which the particular Rule is included:

- “**Accountant**”--a fiduciary or other party who has filed an Account;
- “**Account**”--a financial report by a fiduciary of the principal and income transactions in the form prescribed by Rule 2.1, excluding the annual reports of Guardians;
- “**Adult**”--an individual eighteen years of age or over;
- “**Clerk**”--the Clerk of the Orphans' Court Division or its equivalent;
- “**Commonwealth**”--the Commonwealth of Pennsylvania;
- “**Court**”--the Orphans' Court Division of the Court of Common Pleas or any judge thereof having jurisdiction;
- “**Electronic Filing**”--the electronic transmission via the internet of a legal paper to the clerk;
- “**Facsimile copy**”--a copy of a document transmitted and received by facsimile equipment;
- “**Fiduciary**”--an agent under a power of attorney, custodian under the Uniform Transfers to Minors Act, personal representative, guardian, trustee, guardian *ad litem*, or trustee *ad litem*, and any other person acting in any similar capacity, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the court;
- “**Filing Party**”--a party, or an attorney acting on behalf of a party, who files a legal paper;
- “**Guardian**”--a fiduciary who has the care and management of the estate, the person, or both, of a minor or an incapacitated person;
- “**Guardian *ad litem* or Trustee *ad litem***”--a fiduciary who is appointed by a court in a legal proceeding to represent an individual or class of individuals under a legal disability;
- “**Incapacitated Person**”--a person determined to be incapacitated under the provisions of Chapter 55 of Title 20 (relating to incapacitated persons);
- “**Interested Party**”--one or more individuals or entities having or claiming an interest in the estate, trust, person or other entity that is the subject of the legal proceeding;
- “**Legal Paper**”--a document that is filed with the court;
- “**Local Rule**”--every Rule promulgated in accordance with Rule 1.5;
- “**Majority**”--when used in reference to age, means of the age of eighteen years or over;
- “**Minor**”--an individual under the age of eighteen years;
- “**Motion**”--if in writing, a legal paper that must be signed, but does not need to be verified, does not plead any facts not of record, and does not require the court to obtain jurisdiction over an Interested Party;

**“Objector”**--an individual or entity filing objections to an Account and/or Petition for Adjudication/Statement of Proposed Distribution pursuant to Rule 2.7;

**“Personal Representative”**--the executor or administrator of any description of a decedent's estate;

**“Petition for Adjudication/Statement of Proposed Distribution”**--a uniform, statewide form promulgated by the Supreme Court used in conjunction with the filing of an Account (see Appendix of forms);

**“Pleading”**--a type of legal paper that must be signed and verified in accordance with Rules 3.12 and 3.13 and includes, but is not limited to, petitions, answers, replies, and certain preliminary objections;

**“Publication”**--the publication in a newspaper of general circulation where such newspaper is originally issued and circulated;

**“Register of Wills” or “Register”**--the Register of Wills or its equivalent having jurisdiction or authority to probate wills and grant letters as provided by 20 Pa.C.S. § 901;

**“Supreme Court”**--the Supreme Court of the Commonwealth;

**“Verified”**--when used in reference to a written statement of fact, means supported by the signer's oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

*Note:* This definitional section is new; but, some of the definitions are substantively identical to the definitions in former Rule 2.3 and other definitions are taken from and are similar to Pa.R.C.P. No. 76.

Adopted Dec. 1, 2015, effective Sept. 1, 2016.

### **Rule 3.13. Verification**

(a) Every pleading shall be verified, averring as true every fact not appearing of record in the action or containing a denial of fact based upon the signer's personal knowledge or information and belief. A pleading may be verified upon personal knowledge as to a part and upon information and belief as to the remainder. The signer need not aver the source of the information or expectation of ability to prove the averment or denial at the trial.

(b) If a pleading contains averments that are inconsistent in fact, the verification shall state that the signer has been unable after reasonable investigation to ascertain which of the inconsistent averments, specifying them, are true but that the signer has knowledge or information sufficient to form a belief that one of them is true.

(c) The verification shall be made by one or more of the parties filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading. In such cases, the verification may be made by any person having sufficient knowledge or information and belief and shall set forth the source of the person's information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by a party.

*Note:* Rule 3.13 has no counterpart in former Orphans' Court Rules, but is derived from Pa.R.C.P. No. 1024.

Adopted Dec. 1, 2015, effective Sept. 1, 2016.

## **Rule 4.7. Electronic Filing**

**(a) Authorization for Electronic Filing.** A court may permit or require electronic filing of legal paper. Any court that implements electronic filing shall establish procedures governing such filing by local rule, which shall not be inconsistent with the procedures set forth herein.

### **(b) Electronic Filing of Legal Paper.**

(1) If implemented by court, a filing party may file a legal paper with the clerk by means of electronic filing.

(2) Any party may require the filing party to file the original of a legal paper or exhibit by filing a notice to file with the clerk and serving a copy of the notice upon the filing party. The filing party shall file the specified document with the clerk within 14 days after service of the notice. The court for any reason may direct any party to file the original of a legal paper or exhibit with the clerk within the time specified in the order. Upon disposition of the matter before the court, an original document may be returned to the party who filed it or retained by the court, as the court may determine.

### **(c) Signature, Verification and Retention of Legal Paper.**

(1) The original legal paper shall be properly signed, and where required, verified.

(2) The electronic filing of a legal paper constitutes a certification by the filing party that the original document was signed, and where applicable, verified.

(3) Unless retained by the court, the filing party shall maintain the original of all documents so certified, together with any exhibits filed, for 5 years after the final disposition of the case.

### **(d) Website and Filing Date.**

(1) The court shall designate a website for the electronic filing of legal paper. A user name and password shall be issued to authorized users.

(2) The court shall provide electronic filing access at all times. The time and date of the filing shall be that registered by the court's computer system.

(3) The court shall provide, through its website, an acknowledgement from the clerk that the filing has been processed. Such acknowledgement shall include the date and time of filing in a form which can be printed for retention by the filing party.

**(e) Delay in Filing.** A filing party shall be responsible for any delay, disruption, or interruption of electronic transmission, and for the legibility of the document electronically filed, except for delays caused by the failure of the court's website. The filing party may petition the court to resolve any dispute concerning an alleged failure of the court's website.

**(f) Fees.**

(1) A filing party shall pay the fee for electronically filing a legal paper as provided by the court.

(2) The court may assess an additional automation fee for each legal paper electronically filed which shall be used for the development, implementation, maintenance, and training in the use of the court's electronic filing system and other related uses.

*Note:* Rule 4.7 is substantively identical to former Rule 3.7, but has been relocated to Chapter IV of these Rules.

Adopted Dec. 1, 2015, effective Sept. 1, 2016.

**EXPLANATORY COMMENT**

This Rule is designed as a general enabling mechanism by which local judicial districts can, if they so choose, implement electronic filing. Implementation procedures not inconsistent with this Rule will be determined by local rules of court.

Those jurisdictions which require e-filing must also provide the necessary technical assistance to those parties who lack the capacity to electronically file legal paper.

Nothing in this Rule is intended to change the procedural requirements of Orphans' Court practice, as embodied in the statutes and rules of court. Rather, this Rule is intended to facilitate the delivery of legal paper to the court and the parties, as well as to reduce record management burdens in the office of the clerk. The terms "electronic filing," "filing party," and "legal paper" are defined in Rule 1.3.

The court may, from time to time, modify the approved electronic filing system to take into consideration the costs and security of the system and the maintenance of electronic data and images.

Pa.O.C. Rule 4.7, 20 Pa.C.S.A. foll. Ch. 7, PA ST ORPHANS CT Rule 4.7

Current with amendments received through December 1, 2016.