

# Orphans' Court Rules and Mediation

Selected Orphans' Court Rules Applicable to Closing an Estate

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# Background

- New Rules Effective September 1, 2016
- Purpose of new rules
- County-specific variations
- Rule 1.2

# Rule 1.6 - Mediation

## ORDER OF COURT

**AND NOW THIS** 8th day of October 2018,

**WHEREAS**, the court has received the Petition for Approval of Sale of Real Estate by the Personal Administrator of the above captioned estate, the Answer and New Matter of Respondent . . . and the Reply to New Matter; and the court finding that the estate proceedings are entering their fourth year and have involved significant litigation with apparent discord between multiple beneficiaries;

### **IT IS HEREBY ORDERED AS FOLLOWS:**

The court hereby issues a Rule upon the Personal Administrator, and all of the heirs, answerable within 20 days to show cause why the court should not order the parties to enter into mediation pursuant to Pa.R.O.C.P. 1.6. If the parties cannot agree to enter into mediation under Pennsylvania Rule of Orphans Court 1.6,

**IT IS HEREBY FURTHER ORDERED** that all parties shall appear before the court for a hearing on the issue of whether or not the Personal Administrator should be removed by this court due to conflict of interest or in the alternative to remain as personal representative and whether or not the court should approve the sale of the real estate interests held by the Estate . . . .

The hearing is scheduled for . . . at . . . .

By the Court,

\_\_\_\_\_  
J.

# Forms

- Audit and Administration Forms
  - Petition for Adjudication/Statement of Proposed Distribution
  - Notice of Charitable Gift
  - Notice of Claim
- Register of Wills Forms
  - Estate Information Sheet
  - Petition for Grant of Letters
  - Status Report
- Model Forms of Account

# Rule 1.99 - Confidential Information and Confidential Documents

- Forms
- Practice Tip

# CONFIDENTIAL INFORMATION FORM



*Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*

204 Pa. Code § 213.81

[www.pacourts.us/public-records](http://www.pacourts.us/public-records)

\_\_\_\_\_  
(Party name as displayed in case caption)

\_\_\_\_\_  
Docket/Case No.

Vs.

\_\_\_\_\_  
(Party name as displayed in case caption)

\_\_\_\_\_  
Court

This form is associated with the pleading titled \_\_\_\_\_, dated \_\_\_\_\_.

Pursuant to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*, the Confidential Information Form shall accompany a filing where confidential information is **required by law, ordered by the court, or otherwise necessary to effect the disposition of a matter**. This form, and any additional pages, shall remain confidential, except that it shall be available to the parties, counsel of record, the court, and the custodian. This form, and any additional pages, must be served on all unrepresented parties and counsel of record.

This Information Pertains to:	Confidential Information:	References in Filing:
_____ (full name of adult)	Social Security Number (SSN): _____	Alternative Reference: SSN 1
OR This information pertains to a minor with the initials of _____ and the full name of _____	Financial Account Number (FAN): _____	Alternative Reference: FAN 1
_____ (full name of minor)	Driver License Number (DLN): _____	Alternative Reference: DLN 1
and date of birth: _____	State of Issuance: _____	
	State Identification Number (SID): _____	Alternative Reference: SID 1

# CONFIDENTIAL DOCUMENT FORM



*Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*

204 Pa. Code § 213.81

[www.pacourts.us/public-records](http://www.pacourts.us/public-records)

\_\_\_\_\_  
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Docket/Case No.

Vs.

\_\_\_\_\_  
(Party name as displayed in case caption)

\_\_\_\_\_  
Court

This form is associated with the pleading titled \_\_\_\_\_, dated \_\_\_\_\_, \_\_\_\_\_.

Pursuant to the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*, the Confidential Document Form shall accompany a filing where a confidential document is required by law, ordered by the court, or is otherwise necessary to effect the disposition of a matter. This form shall be accessible to the public, however the documents attached shall not be publicly accessible, except as ordered by a court. The documents attached will be available to the parties, counsel of record, the court, and the custodian.

**Please only attach documents necessary for the purposes of this case.** Complete the entire form and check all that apply. This form and any additional pages must be served on all unrepresented parties and counsel of record.

Type of Confidential Document	Paragraph, page, etc. where the confidential document is referenced in the filing:
<input type="checkbox"/> Financial Source Documents	
<input type="checkbox"/> Tax Returns and schedules	
<input type="checkbox"/> W-2 forms and schedules including 1099 forms or similar documents	
<input type="checkbox"/> Wage stubs, earning statements, or other similar documents	
<input type="checkbox"/> Credit card statements	
<input type="checkbox"/> Financial institution statements (e.g., investment/bank statements)	
<input type="checkbox"/> Check registers	
<input type="checkbox"/> Checks or equivalent	
<input type="checkbox"/> Loan application documents	
<input type="checkbox"/> Minors' educational records	
<input type="checkbox"/> Medical/Psychological records	
<input type="checkbox"/> Children and Youth Services' records	
<input type="checkbox"/> Marital Property Inventory and Pre-Trial Statement as provided in Pa.R.C.P. No. 1920.33	
<input type="checkbox"/> Income and Expense Statement as provided in Pa.R.C.P. No. 1910.27(c)	
<input type="checkbox"/> Agreements between the parties as used in 23 Pa.C.S. §3105	

# Rule 1.99 (continued)

- Practice Tip: County Differences (redaction vs. substitution)
- Certification

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

\_\_\_\_\_  
Signature of Attorney or Unrepresented Party

\_\_\_\_\_  
Date

Name: \_\_\_\_\_

Attorney Number: (if applicable) \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**NOTE: Parties and attorney of record in a case will have access to this Confidential Information Form. Confidentiality of this information must be maintained.**



# Accounts

- PA Supreme Court Form for Accounts
- Notice (see next slides)
- Representation (see next slides)
- Objections – Rule 2.7

# Notice of Account Filing

- Rule 2.5: Contains specific language and instructions that must be mailed to each interested party.
- Rule 4.2: Citation or Notice to Individuals or Entities
- Rule 10.5: Notice to Beneficiaries and Intestate Heirs
- Rule 10.6: Status Report by Personal Representative

# Notice to OAG

- Rule 4.4:
  - 20 days advance written notice of every court proceeding involving or affecting a charitable interest
  - Such notice shall include all of the things listed in 4.4(a).
- Proof of service must be filed. If a “no objection” letter (also known as a charitable gift clearance certificate) is obtained, that may be filed prior to audit.
- No notice to the OAG is needed for a pecuniary legacy to a charity in the amount of \$25,000 or less

# Notice of Adjudication

- Rule 4.6:

The clerk shall immediately give written notice of the entry of an adjudication or court order in a particular matter to each party's counsel of record or, if unrepresented, to each party. The notice shall include a copy of the adjudication or court order.

# Representation

- 20 Pa. C.S. 751(6) states that minors, incapacitated persons, and possible unborn or unascertained persons may be represented by a guardian *ad litem* or trustee *ad litem*.
- The court may dispense with the appointment of a guardian *ad litem* or trustee *ad litem* if there is a living person *sui juris* having a similar interest or by a living ancestor who has no adverse interests.
- These requests can be raised on petition of the accountant or any interested party, or by the court on its own motion.
- See O.C. Rule 5.5.

# References

- Orphans' Court Rules: <https://www.pacode.com/secure/data/231/partlltoc.html>
- Orphans' Court Forms: <http://www.pacourts.us/forms/for-the-public/orphans-court-forms>
- Orphans' Court Procedural Rules Committee: <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/orphans-court-procedural-rules-committee>
- Confidential Information Form: <http://www.pacourts.us/assets/files/setting-895/file-6574.pdf?cb=178750>
- Confidential Document Form: <http://www.pacourts.us/assets/files/page-1089/file-6575.pdf>