

# **TIOGA COUNTY RULES OF CIVIL PROCEDURE**

## **BUSINESS OF COURT**

### Rule TC - 205.1. Filing Legal Papers.

Any legal paper which requires the signature of or action by the Court, including but not limited to, motions, petitions, objections, exceptions and rules to show cause shall be filed as follows:

- (1) original with the Prothonotary's Office,
- (2) one copy with the Court Administrator,
- (3) copies to all counsel of record or unrepresented parties.

### Rule TC - 206.4(c). Procedure for the Issuance of a Rule to Show Cause.

A petition seeking the issuance of a rule to show cause shall be filed in the Prothonotary's Office. A proposed order, in the form prescribed by Pa. R.C.P. 206.6(c), shall be attached to the petition. After filing, the Prothonotary's Office shall transmit the petition to the Court Administrator for consideration by the Court.

Upon the filing of a petition, a rule to show cause shall be issued as a matter of course pursuant to Pa. R.C.P. 206.6, unless otherwise required by statute or other Pennsylvania Rule of Civil Procedure.

A request for a stay of execution pending disposition of a petition to open a default judgment is governed by motion procedure, not petition procedure. See Rule TC - 208.3(a).

### Rule TC - 208.3(a). Motion Procedure.

A. All Motions shall be filed with the Prothonotary's Office and shall include a proposed scheduling order. Argument will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented parties of the date, time and place for argument. The Court, in its discretion, may decide the matter at argument or take the matter under advisement.

B. The Court, in its discretion, may hear any argument by telephone or videoconference hookup, provided counsel has made a prompt request to participate electronically in writing to the Court Administrator. The party requesting the opportunity to participate electronically shall bear the cost thereof, unless the Court provides otherwise.

C. The moving party in all post-trial or post-hearing motions shall, if the argument relates to the testimony presented, arrange for the transcription of so much of the testimony as may be required to resolve the issues presented.

D. Emergency motions shall be governed by the above procedure, except that after filing, the moving party shall notify the Court Administrator of the emergency situation and may request that the Court immediately consider the motion. If the moving party is requesting a waiver of the certificate of service requirement, the party shall make every effort to notify opposing parties of the substance of the motion and the time of filing and presentation to the Court.

E. Motions for continuance must be made in writing or of record in open court unless excused by the Court for cause. Absent exceptional circumstances, motions for continuance shall be presented no later than ten (10) days before the date of the proceedings for which the continuance is requested. Thereafter, no motions for continuance will be granted except for substantial reasons, which were not previously known or reasonably ascertainable. The motion shall state whether or not the proceedings previously have been continued and, if so, the number of prior continuances with identification of the party upon whose motion each continuance was granted.

Absent extraordinary circumstances, a request for continuance based on proceedings scheduled in another Court of Common Pleas will be granted only if the other Court's scheduling order was issued before the order scheduling and proceedings for which the continuance is requested. If the motion is based on conflict with a matter scheduled in another Court of Common Pleas, the scheduling order from the other Court of Common Pleas shall be attached to the motion.

F. A motion requesting a stay of execution pending disposition of a petition to open a default judgment shall be considered in the same manner as other motions or emergency motions, if applicable.

#### Rule TC - 212. Pre-Trial Conference.

(a) Upon the filing of a Praecipe for Trial which shall be substantially in the form set forth in Rule TC-212.1, the Court Administrator shall schedule a date and time certain for a Pre-Trial Conference which date shall not be less than thirty (30) days after the filing date.

(b) A Pre-Trial Memorandum substantially in the form set forth in Rule TC-212.2 shall be prepared and submitted by all parties at the time of the conference with copies provided to all other parties.

Rule TC - 212.1. Praeceptum for Trial Form.

\_\_\_\_\_ : IN THE COURT OF COMMON PLEAS  
v \_\_\_\_\_ : OF TIOGA COUNTY, PENNSYLVANIA  
\_\_\_\_\_ : NO. \_\_\_\_\_ CIVIL DIVISION 20\_\_\_\_\_

**PRAECEPTUM FOR TRIAL**

**AND NOW**, \_\_\_\_\_, 20\_\_\_\_ comes the  
\_\_\_\_\_ by his/her counsel, \_\_\_\_\_, Esq. and requests the  
Court to schedule the above captioned matter for trial. In support thereof, the  
\_\_\_\_\_ makes the following statements.

- (1) That a complaint was filed on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.
- (2) That all pleadings are closed and all discovery has been completed, including depositions.
- (3) That all attorneys of record or unrepresented parties (agree/disagree) that the matter is ready for trial. (If all parties do not agree, identify those parties and note their objections).

**WHEREFORE**, \_\_\_\_\_ requests the Court to schedule the matter for trial.

Rule TC - 212.2. Pre-Trial Memorandum Form.

\_\_\_\_\_ : IN THE COURT OF COMMON PLEAS  
v. \_\_\_\_\_ : OF TIOGA COUNTY, PENNSYLVANIA  
\_\_\_\_\_ : NO. \_\_\_\_\_ CIVIL DIVISION 20\_\_\_\_\_

**PRE-TRIAL MEMORANDUM**

(Representing Plaintiff/Counterclaimant)

1. A Brief statement of the factual situation or a reference to the pleadings.
2. An itemized list of all specials, including loss of wages.

3. The amount being demanded, payment of which would result in settlement. This demand to be broken down to reflect the specific amounts being demanded for specials, pain and suffering, permanent injury, loss or consortium, etc.

(Representing Defendant/Plaintiff as Additional Defendant)

1. Paragraphs in plaintiff's complaint which will be admitted at trial without requirement of proof.
2. The defense to be presented to plaintiff's claim.
3. The offer being made which, if accepted, would result in settlement.

(Both Plaintiff & Defendant)

4. The names and addresses of all witnesses to be called, including a designation as to whether the witness will testify to liability or damages.
5. A list of exhibits to be offered, including a brief description of each.
6. A summary of expected expert testimony if the expert will testify in person and a copy of expert's report.
7. Legal issues or questions which will likely require ruling by the Court, together with any citations which will support rulings to be requested.
8. Estimated time for trial of the case.
9. Any legal or factual issues to which the parties will stipulate.
10. A copy of any plan or plot to be introduced into evidence. In negligence cases, there shall be drawing or plot of the accident submitted at the pre-trial conference.

In addition, all attorneys shall be accompanied by or have direct access to their respective parties or representatives who have the authority to agree upon a settlement or the attorney shall have such authority.

Rule TC - 216. Continuances.

All requests for the continuance or any hearing scheduled by the Court shall be filed in writing unless waived by the Court.

## **RULES GOVERNING DISTRICT JUSTICES**

Rule TC - 1005. Service of Notice of Appeal.

In lieu of service or proof of service by personal service or certified or registered mail, an appellant may file with the notice of appeal a stamped envelope self-addressed to the appellee at the address listed on the complaint form filed in the office of the district justice, or the attorney of record if there is one, AND a stamped envelope pre-addressed to the district justice in whose office the judgment was rendered. Copies of the notice of appeal and rule, if applicable, shall thereupon be mailed by the Prothonotary by first class mail, with such service and any return being noted on the docket.

### **ACTIONS AT LAW**

Rule TC - 1018.1. Notice to Defend.

The agency to be named in all Notices to Defend from whom legal help may be obtained shall be:

North Penn Legal Services  
1-800-326-7436

Rule TC - 1028(c). Preliminary Objections.

All preliminary objections shall be filed with the Prothonotary and shall include a proposed scheduling order. Preliminary objections should not be filed with the Court Administrator. Courtesy copies for the court are not required. Preliminary objections should not be filed in duplicate or by facsimile transmission. The court will take no action until the preliminary objections have been filed of record. No response is required to any preliminary objection unless required by Pa.R.C.P. or unless required by the Court in the scheduling order.

Argument will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented parties of the date, time and place for argument. The court, in its discretion, may decide the matter at argument or take the matter under advisement.

All preliminary objections shall be supported by a statement of authority citing a statute, rule of court, or case law in support of the requested relief. The statement may be in the form of a brief filed contemporaneously with the preliminary objections or, if the preliminary objections do not raise complex legal or factual issues, in the body of the preliminary objections.

The court, in its discretion, may hear any argument by telephone or videoconference hookup, provided counsel has made a prompt request to participate electronically in writing to the Court Administrator. The party requesting the opportunity to participate electronically shall bear the cost thereof, unless the court provides otherwise.

Rule TC - 1034(a). Motion for Judgment on Pleadings.

A motion for judgment on pleadings and a brief in support thereof shall be filed with the Prothonotary and shall include a proposed scheduling order. A motion for judgment on the pleadings should not be filed with the Court Administrator. Courtesy copies for the court are not required. A motion for judgment on the pleadings should not be filed in duplicate or by facsimile transmission. The court will take no action until the motion has been filed of record. The opposing party shall file an answer and reply brief to the motion within thirty (30) days after service of the motion, unless the time for filing the response is modified by the court order.

Argument will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented parties of the date, time and place for argument. The court, in its discretion, may decide the matter at argument or take the matter under advisement.

The court in its discretion, may hear any argument by telephone or videoconference hookup, provided counsel has made a prompt request to participate electronically in writing to the Court Administrator. The party requesting the opportunity to participate electronically shall bear the cost thereof, unless the court provides otherwise.

Rule TC - 1035.2(a). Motion for Summary Judgment.

A motion for summary judgment and a brief in support thereof shall be filed with the Prothonotary and shall include a proposed scheduling order. A motion for summary judgment should not be filed with the Court Administrator. Courtesy copies for the court are not required. A motion for summary judgment should not be filed in duplicate or by facsimile transmission. The court will take no action until the motion has been filed of record. The opposing party shall file an answer and reply brief to the motion within thirty (30) days after service of the motion, unless the time for filing the response is modified by court order.

Argument will be scheduled for a time and date certain. The moving party shall notify opposing counsel and any unrepresented parties of the date, time and place for argument. The court, in its discretion, may decide the matter at argument or take the matter under advisement.

The court, in its discretion, may hear any argument by telephone or videoconference hookup, provided counsel has made a prompt request to participate

electronically in writing to the Court Administrator. The party requesting the opportunity to participate electronically shall bear the cost thereof, unless the court provides otherwise.

**COMPULSORY ARBITRATION**

Rule TC - 1301. Scope.

(a) All civil actions wherein the amount in controversy is within the limits set by Section 7361 of the Judicial Code, 42 Pa. C.S.A. 7361, shall first be submitted to and heard by a board of arbitrators.

(b) Referral to arbitration shall be accomplished by the filing of a Praecipe for Arbitration substantially in the form set forth in Rule TC-1301.1, or by order when the Court determines that proper jurisdiction of a civil action lies before arbitrators.

Rule TC - 1301.1. Praecipe for Arbitration Form

\_\_\_\_\_ : IN THE COURT OF COMMON PLEAS  
v. : OF TIOGA COUNTY, PENNSYLVANIA  
\_\_\_\_\_ : NO. \_\_\_\_\_ CIVIL DIVISION 20\_\_\_\_

**AND NOW**, \_\_\_\_\_, 20\_\_\_\_ comes the \_\_\_\_\_ in the above captioned matter and requests the Court to schedule an Arbitration for the reasons more fully set forth below:

- (1) That the amount in controversy is within the limits set forth in 42 Pa. C.S. A. 7361
- (2) That the matter does not involve title to real estate.
- (3) That the matter does not require equitable or declarator relief.

**WHEREFORE**, \_\_\_\_\_ requests the Court to appoint a board of arbitrators and schedule the matter for arbitration.

Rule TC - 1302. List of Arbitrators.

(a) All members of the bar within Tioga County shall be eligible to serve as arbitrators unless a written waiver is filed in the Prothonotary's office.

(b) The Court Administrator shall list available arbitrators alphabetically by surname and selection shall be made alphabetically taking into consideration the requirements and limitations set forth in Pa.R.C.P. 1302.

Rule TC - 1303. Hearing. Notice.

(a) Subsequent to the filing of a Praecipe for Arbitration and the appointment of arbitrators, the Court Administrator shall provide written notice of the date and time for arbitration to all counsel of record or unrepresented parties and to the arbitrators.

Rule TC - 1308. Arbitrators Compensation.

Each member of a board of arbitrators who has signed the award or filed a minority report shall receive as compensation a fee of forty dollars (\$40) per hour for hearing and deliberation time.

## **RULES OF JUDICIAL ADMINISTRATION**

Rule TC - 1901. Termination of Inactive Cases.

The Court Administrator, shall on a quarterly basis, list for general call all civil, criminal and orphans court matters in which no steps or proceedings have been taken for one (1) year or more prior thereto and shall give notice thereof to all counsel of record or unrepresented parties as provided by PA.R.J.A. 1901(c). If no good cause for continuing a proceeding is shown at or before the general call, an order for dismissal shall be entered forthwith by the Court.

## **ACTIONS FOR SUPPORT**

Rule TC - 1910.10. Alternate Hearing Procedures.

The Court adopts the alternative hearing procedures as set for in Pa.R.C.P. 1910.12.



## **ACTIONS FOR CUSTODY/VISITATION**

Rule TC - 1915.3. Commencement of Action.

(a) Upon the filing of a Complaint for Custody, Partial Custody or Visitation, the matter shall be referred to the Child Custody Conference Officer for an informal conference among the parties.

(b) At the time of the conference, an attempt shall be made to reach an amicable agreement between the parties.

(1) If an agreement is reached, it shall be reduced to writing, signed by all parties and submitted to the Court for approval and order.

(2) If no agreement is reached, the officer shall prepare a biographical history of the parties and recommend the Court order such psychological testing, counseling, home studies or mediation as the Court shall deem appropriate. Thereafter, the matter shall be scheduled for a hearing before the Court.

(c) Costs of such psychological testing, counseling, home studies or mediation shall be assessed by the Court.

## **ACTION OF DIVORCE**

Rule TC - 1920.55-1. Procedures for Matters Referred to Master.

All divorce proceedings shall be conducted in accordance with Pa.R.C.P. 1920.55-2.

## **TIOGA COUNTY ORPHANS' COURT RULES**

These Rules are keyed into the Supreme Court Rules and the letter should be consulted before applying the local rules.

TC - 6.1-TC - 6.11. Accounts & Distribution.

6.1 (e) There shall be attached to the account, the affidavit of notice which shall contain the names and addresses of all parties to whom the accountant gives notice.

6.1(f) (i) Accountant's legal copies of ledgers and print-outs may be used to state an account. If these contain abbreviations, code numbers and symbols shall be explained.

6.3 Notice of the filing of an account and, unless an audit has been requested, of the filing of a statement or proposed distribution shall be given twenty-five (25) days prior to the date of confirmation to every unpaid claimant who has given written notice of this claim to the accountant, and to every other person known to the accountant to have or claim an interest in the estate as creditor, beneficiary, heir or next of kin. This shall include a notice to any person who has an arguable interest in the estate. The form of notice shall substantially comply with the sample notice set forth in Appendix I including such cautionary clauses as are applicable. (See Appendix I).

The statement of Proposed Distribution shall be in compliance with the form set for in Appendix II.

6.4 All accounts shall be filed at least twenty five (25) days prior to the date of confirmation.

6.9 (a) When a schedule of proposed distribution has not been filed with the account, the accountant shall request the appointment of an auditor. The form of notice to be given by the accountant to all interested parties shall be substantially as follows:

**(CAPTION)**

You are hereby notified that the Accountant filed an account and requested the appointment of an auditor to determine the distribution to be made of the funds in the hands of the accountants, and to decide any questions of law or fact. You will be notified of the date, time and place of any hearings.

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(Accountant or his counsel)

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(Address)

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(Telephone Number)

(1) Every fiduciary filing an account shall file a statement of proposed distribution containing the names of the distributee, the amount or share awarded to each and a brief statement of the nature of, and the reasons for, the proposed awards in such distribution.

(2) Where real estate is distributed, the real estate in the statement of proposed distribution shall be described by metes and bounds, when such description is available.

(3) In lieu of filing a statement of proposed distribution, a fiduciary shall file at the same time he files his account a written request, by motion, that distribution be determined by the Court or an auditor.

(4) The statement of proposed distribution of a personal representative shall be attached to the account and shall be filed in the office of the Register of Wills or the Clerk of the Court.

(5) The statement of proposed distribution of a trustee, guardianship of a minor, guardian of an incompetent, or custodian under the Uniform Gift to Minors Act, shall be attached to the account and filed with the Clerk of the Orphans' Court Division of the Court of Common Pleas.

Notice of the filing of the statement of proposed distribution which accompanies the account shall be given by the Register of Wills or the Clerk of the Court, as the case may be, by publication in two (2) newspapers of general circulation within the county, once a week for three (3) successive weeks immediately prior to the date of confirmation.

6.10. All objections shall be in writing and shall be filed with the Register of Wills or the Clerk of the Court, as the case may be, between the date of the filing of the account and the date of its confirmation, and with a copy to each person listed on the affidavit of notice or his attorney and a copy to the Court Administrator. The accountant or any party in interest may move the Court to appoint an auditor to resolve any issues raised with respect to the account or statement of proposed distribution.

6.11(a) All accounts and statements of proposed distribution which have been properly advertised and for which notices have been given shall be confirmed by the Register of Wills or the Clerk of the Orphan's Court, as the case may be, on the first Monday of each month, unless that day is a holiday, in which event confirmation shall be made the next day. When confirmed, the statement of proposed distribution shall thereupon become the Decree of Distribution.

TC - 7.1. Exceptions.

All exceptions shall be in writing and shall be filed with the Register of Wills or the Clerk of the Court between the date of the filing of the account and the date of its confirmation and with a copy to each person listed on the affidavit of notice or his attorney, the Register of Wills and the Court Administrator.

TC - 8.1 - 8.6. Auditors and Masters.

8.1 Except where otherwise provided by a rule adopted by the Supreme Court or by an Act of Assembly, whenever notice is to be given a person, it shall be given:

(a) by service upon the attorney appearing of record for such person;  
or

(b) if there is no such attorney, by personal service, delivery at the residence of such person or by mail, if his residence is known; or

(c) if his residence is not known, by publication once a week during three (3) successive calendar weeks in a newspaper of general circulation published at or near his last known residence within the county; or

(d) in such other manner as the Court shall direct.

8.6 At the time of filing the report, an auditor or master shall give notice of the filing of his report to all parties in interest and shall state that in the absence of exceptions or objections his report will be confirmed twenty (20) days after the date on which the auditor or master shall have filed his report.

#### TC - 10.1. Appeal Form – Register of Wills.

Appeals taken from the judicial actors or proceedings of the Register shall be addressed to the Orphans' Court Division Common Pleas of Tioga County, but filed with the register; shall specify the points upon which based; and shall set forth the names of all interested parties and the necessary jurisdictional facts. A copy shall be sent to the Court Administrator.

#### TC - 12.1. Special Petitions, Family Exemption.

(A) A petition and order of Court will only be required when an appraisal of personal property or real estate is necessary.

(1) When appraisal unnecessary. Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed;

(a) in money;

(b) from personal property and the gross value of the decedent's estate does not exceed the amount of the Family Exemption; or

(c) in real or personal property at valuations agreed upon by all parties in interest.

(2) When Appraisal Necessary.

(a) Personal Property. When personal property is claimed, and its value is not agreed upon by all parties in interest and an appraisal is necessary, the Court will direct the appraisement to be made by special Order in each case.

(b) Real Property. When real property is claimed and the value is not agreed upon by all parties in interest, appraisement shall be made by two appraisers

appointed by the Court at outlined in 20 P.S. 3123(a) Probate, Estates and Fiduciaries Act.

(3) Notice.

(a) When No Petition. When the procedure is without petition, no notice other than that to the personal representative need to be given of the claim for exemption.

(b) When Petition Filed. When the procedure is by petition, notice of the filing thereof, and of the date fixed by the Court for confirmation and allowance, shall be given by:

(i) actual notice to the personal representative, if any, and to all person, other than creditors, adversely affected by allowance of the exemption who do not join in the prayer of the petition, and by;

(ii) advertisement once a week for three (3) successive weeks in two newspapers of general circulation.

(c) After Appraisalment. When it is necessary for the Court to Appoint appraisers, the notice shall be given after the appraisalment has been made and filed.

TC - 12.2 (b). Allowance to Surviving Spouse.

The manner of appraising the property shall be the same as provided in TC-12.1(A) (2) (b) of filing and confirming the appraisal, and of advertising or giving notice thereof shall be as prescribed in TC-12.1(A) (3) (b).

TC - 12.3 (b). Spouse's Election.

Extension of Time. A petition for the extension of time in which the surviving spouse may file an election to take against the Will shall include the requirements for a petition under Rule 12.3.

TC - 12.5 (e). Appointment of Guardian, Minor.

Appearance at Presentation of Petition. Except as may be required by the Court in certain circumstances, the appearance of the minor in Court to make the selection of a guardian of the estate is not required. The appearance in Court of a minor over the age of fourteen (14) years shall be necessary in all cases involving appointment of a guardian of the person.

TC - 12.9. Public Sale of Real Property.

Public Sale of Real Property. Contents of Petition. Additional Requirements.

(A) Personal Representative. When it is required that a personal representative petition the Court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall set forth also in separate paragraphs.

(1) the name, residence and date of death of the decedent, whether he died testate or intestate; and the date of the grant of letters;

(2) that the personal representative is not otherwise authorized to sell by the Act; or is not authorized or is denied the power to do so by the Will, or that it is desirable that the sale have the effect of a judicial sale, state and reasons;

(3) whether an inventory and appraisalment has been filed; the total value of the property to be sold was included therein;

(4) if the personal representative entered bond with the Register, the name of the surety and the amount of such bond;

(5) the names and relationships of all parties in interest, a brief description of their respective interests; whether any of them are minors, incompetents or deceased, and if so, the names of their fiduciaries, if any;

(6) the improvements on the property, by who it is occupied, its rental value and current tax assessment; and

(7) sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

(B) Trustee. When it is required that a trustee petition the Court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall also set forth in separate paragraphs:

(1) how title was acquired, stating the date and place of probate of the will or recording of the deed, or a reference to the Trust instrument.

(2) a recital of the relevant provisions of the Will, Trust, instrument of deed pertaining to the real property to be sold and of the history of the trust;

(3) the names and relationships of all parties in interest; a brief description of their respective interests; whether any of them are minors, incompetents or deceased, and if so, the names of their fiduciaries, if any;

(4) the improvements on the property, by whom it is occupied, its rental value and current tax assessment;

(5) that the trustee is not otherwise authorized to sell by the Act, or is denied the power by the trust instrument, or that it is advisable that the sale have the effect of a judicial sale, stating the reasons; and

(6) sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust.

(C) Guardian of a Minor. When it is required that a guardian petition the Court to sell real property at public sale, the petition (in addition to requirements of Rule 12.9) shall also set forth in separate paragraphs:

(1) the age of the minor;

(2) the names of his next of kin and the notice given to them of the presentation of the petition. When there are no known next of kin who are sui juris to whom notice may be given, public notice in accordance with Rule 12.1 (A) (3) (b) (ii) must be given and proofs thereof must be attached to the petition as an exhibit;

(3) how title was acquired, stating the date and place of probate of the will or recording of the deed;

(4) a recital of the provisions of the will, deed or trust instrument relating to the real property to be sold;

(5) the nature and extent of the interest of the minor, and of other persons in the real property;

(6) the improvements on the property, by whom it is occupied, its rental value and current tax assessment; and

(7) sufficient facts to enable the Court to determine that the proposed sale will be for the best interest of the minor.

(D) Public Sale. Exhibits. The following exhibits shall be attached to be a petition by a personal representative, trustee or guardian to sell real property at public sale;

(1) a copy of the will, deed, trust instrument or decree by which the fiduciary was appointed; and

(2) any consents or joinders of parties in interest and the names and copy of the notice which has been given to these parties who do not consent or join; and

(3) consent by any mortgage whose lien would otherwise not be discharged by the sale.

(E) Public Sale of Real Property. Notice. Return.

(1) Notice. After the allowance of a petition for public sale, public notice of the proposed sale shall be given as provided by Rule 12.1(A) (3) (b) (ii), and as far as possible, at least ten (10) days prior to notice of the time and place of the proposed sale shall be given to all parties in interest, by personal service or certified mail.

(2) Return. Returns of public sale of real property for the purpose of approval or confirmation by the Court shall be in the form of an affidavit, which shall set forth:

(a) the information required by Rule 5.1 and the advertisement made;

(b) the price obtained; and

(c) the name and address of the purchaser and that he was highest bidder.

(F) Public Sale. Security. On the return date of the sale, the Court, in the decree approving or confirming the sale, will fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter, or will excuse the fiduciary from entering additional security.

TC - 13.1. Report by Fiduciary.

The fiduciary or his counsel shall file with his account and statement of proposed distribution, a statement setting forth all of the efforts that have been made to locate the distributee.

TC - 14.1. Incompetents' Estate.

The practice shall be by petition with citations attached to be served upon the incompetent which shall state the date, time and place of hearing, which hearing shall be not less than ten (10) days hence.

TC - 15.3 - 15.4

A proposed decree shall be prepared and presented to the Court in substantially the form set forth below:



**(CAPTION)**

**DECREE**

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, from the evidence presented at the hearing held on \_\_\_\_\_, 20\_\_\_\_, on the Petition to (Confirm Consent) or (Terminate Parental Rights), the court finds the averments of the petition are true, that the requirements of the Adoption Act have been met, and that the interest and welfare of the minor child, \_\_\_\_\_ will be served if the petition is granted. As a result, the parental rights of \_\_\_\_\_, relative to the child, \_\_\_\_\_ are hereby forever terminated and further adoption proceedings concerning the child may go forward without notice to, or consent from, \_\_\_\_\_.

\_\_\_\_\_, whose parental rights are terminated hereby (is/are) advised that (he/she/they) continues to have the right, at anytime, to place and update personal and medical history information on file with the Court, and with the Department of Health and Public Welfare, pursuant to the provisions of the Adoption Act. Non-identifying medical history information placed on file may be disclosed to the adoptive parents, or his or her or their physician, or, once the child attains the age of eighteen, to the child's physician. Other personal information placed on the file may be disclosed upon the request of the child who has attained the age of eighteen, or, if the child is less than eighteen, upon the request of the child's adoptive parent or legal guardian.

BY THE COURT:

\_\_\_\_\_  
Robert E. Dalton, Jr., President Judge

TC - 15.5 - 15.8. Adoptions.

In the absence of a special Order of Court, there shall be no investigation of the petition for adoption. The Court shall issue an Order to the Investigating Agency that it must conclude its investigation and prepare and file its report not later than six (6) months after notice of intention to adopt as provided in Section 335 of the Adoption Act.

At the conclusion of the hearing for adoption, the attorney for the petitioners shall deliver to the Judge a form substantially in the manner indicated as follow:

(CAPTION)

**FINDINGS OF FACT**

1. The Petitioners are \_\_\_\_\_ and \_\_\_\_\_, his wife who are adult citizens of the County of Tioga and Commonwealth of Pennsylvania, and they reside at \_\_\_\_\_, Tioga County, Pennsylvania.

2. The husband was born at \_\_\_\_\_ on \_\_\_\_\_.

3. The wife was born at \_\_\_\_\_ on \_\_\_\_\_.

4. The wife's maiden name was \_\_\_\_\_.

5. The name of the adoptee is \_\_\_\_\_.

6. The adoptee was born at \_\_\_\_\_ on \_\_\_\_\_.

7. The adoptee has resided with the husband, petitioner since \_\_\_\_\_, and with the wife, petitioner since \_\_\_\_\_.

8. the facts with respect to parental relinquishment are as follows: \_\_\_\_\_  
\_\_\_\_\_.

9. Notice of the hearing on the petition for adoption was given to all persons entitled to notice.

10. It is to the best interest of the child to allow the adoption.

11. The Petitioners and the child are of the following race and faith: \_\_\_\_\_  
\_\_\_\_\_.

12. There has been compliance with all the provisions of the Adoption Act (1 P.S. et seq).

**(CAPTION)**

**DECREE**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in consideration of the Petition filed, after investigation made and testimony of the witnesses heard,

**IT IS ORDERED AND DECREED:**

That the Welfare of the adoptee will be promoted by the adoption; that all requirements of the Adoption Act have been met; that the adoptee shall have all the rights of a child and heir of the Petitioners and shall be subject to the duties of a child of the Petitioners; and that the child shall be known as \_\_\_\_\_.

(Full Name)

**BY THE COURT,**

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PRESIDENT JUDGE

**APPENDIX 1**

**SAMPLE FORM OF N O T I C E**

IN THE MATTER OF : IN THE COURT OF COMMON PLEAS  
THE ESTATE : OF TIOGA COUNTY, PENNSYLVANIA  
OF : ORPHANS' COURT DIVISION  
DECEASED. : NO 20 \_\_\_\_\_

N O T I C E

TO (name and address of specific claimant or creditor) :  
OR

(all creditors, claimants or parties interested, including those with arguable interests, in the estate of the above-named decedent):

Notice is hereby given that the account of \_\_\_\_\_ (name) Executor (Administrator) of the estate of the above-named decedent, was filed in the Office of the Register of Wills of Tioga County, (or Orphans' Court Division of the Court of Common Pleas) on \_\_\_\_\_ (date), 20 \_\_\_\_\_, and that the same will be called for audit before Robert E. Dalton, Jr., Judge of the Orphans' Court Division of the Court of Common Pleas of Tioga County, in the Courtroom, Tioga County Courthouse, Wellsboro, Pennsylvania, at \_\_\_\_\_ o'clock, on \_\_\_\_\_ (Day of week) \_\_\_\_\_, 20 \_\_\_\_, at which place and time you may appear, either in person or by counsel.

Your claim in the amount of \$\_\_\_\_\_ (or other interest, if not in a specific, liquidated amount, is (not) admitted, and it will be so represented to the court at the audit. (If not admitted: You will be expected to appear at the place and time indicated, and prove your claim, and in default of such appearance and proof, your claim may be dismissed by the Court for lack of prosecution).

A copy of the Account and Statement of Proposed Distribution is (enclosed), (may be inspected in the office of \_\_\_\_\_, counsel for the Accountant, at any time prior to the audit), or (may be instead in the Office of the (register of Wills) (Clerk of the Orphans' Court) or (Judge of the Orphans' Court Division of the Court of Common Pleas before whom said account will be called for audit) at any time prior to the audit thereof).

For your further information, the said Account shows a balance for distribution of \$\_\_\_\_\_, which, if claim is admitted or proved at the audit, will (not) be sufficient to pay same in full.

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Counsel for the Accountant  
(Executor or Administrator)

DATE: \_\_\_\_\_, 20\_\_.

**NOTE:** In addition to the general information set forth in the foregoing NOTICE, the Accountant should set forth in his notice to heirs, legatees or other parties interested, including persons with arguable interest in final distribution of decedent's estate, the following:

1. His interpretation or any dispute of fairly disputable question known to him or reasonable ascertainable by him;
2. A true and correct copy of the instrument forming the basis of the dispute, or of the material parts thereof containing the disputed provisions; and
3. A statement that if the person notified does not agree with the accountant's interpretation, he must appear at the audit, in person or by counsel, to present his contention, under penalty for failure to appear that the Court may assume that he agrees with the accountant's interpretation.
4. A warning that if the person fails to appear, the Court may proceed to determine said issues without him, without further notice, and that he may lose property, money or other rights important to him.

**APPENDIX II**

IN THE MATTER OF : IN THE COURT OF COMMON PLEAS  
THE ESTATE : OF TIOGA COUNTY, PENNSYLVANIA  
OF : ORPHANS' COURT DIVISION  
DECEASED. : NO 20 \_\_\_\_\_

STATEMENT OF PROPOSED DISTRIBUTION

The statement of \_\_\_\_\_ (Fiduciary) respectfully represents:

1. The decedent, \_\_\_\_\_, died testate (or intestate) on \_\_\_\_\_, a resident of the \_\_\_\_\_ of \_\_\_\_\_, Tioga county, Pennsylvania.
2. Decedent's Last Will and Testament, dated \_\_\_\_\_, was duly admitted to probate by the Register of Wills of Tioga County, Pennsylvania on \_\_\_\_\_, 20\_\_\_\_, and \_\_\_\_\_ was appointed Executor (or Letters of Administration were duly issued by the Register of Wills of Tioga County, Pennsylvania on \_\_\_\_\_, 20\_\_\_\_, to \_\_\_\_\_.
3. The decedent, was survived by
  - (a) (State whether a husband or wife survived, and if so, his or her name and residence; whether he or she has elected to take under or against the will, and, if so, whether the election has been duly recorded and filed, and furnish a copy; and whether or not the decedent left issue or adopted children, and their names and residences, when material).

(b) The names and residences of all beneficiaries, their relationship to the decedent, and the amount and nature, and character of their interest (noting such devises and bequests as have been revoked, adeemed, lapsed, assigned or disclaimed) and the supporting information relative thereto are as follows:

(In cases of partial intestacy, state the names and residences of the heirs and next of kin, their relationship to the decedent, and, where applicable, the names of their parents, thereby disclosing the relationships and interests derived therefrom).

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Name and Residence	Relationship	Amount, Natural and Characteristic if Interest
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4. All of said parties in interest are living of full age, and sui juris except:

(State exceptions, if any, as to those parties in interest who are under legal disability, specifying the reason therefore, and the names and residence of their guardians or committees and how appointed (specifying the Court, term and number, where applicable); the date of the deaths of any of the beneficiaries who are deceased, the names and residences of their personal representatives, and the date and places of the grant of their letter, or the names and residences of their issue, when material. If there no exceptions, insert the work "none").

5. All parties in interest, including unpaid creditors and claimants, and any parties with arguable interests.

(a) Have had notice of the filing of the account, the statement of proposed distribution and of the time and place of audit by:

(State method, date and exceptions, if any. In those instances, where notice has been given, a copy of said notice as well as the names and addresses of the parties notified, shall be appended to the statement of proposed distribution. In those instances where notice is yet to be given, a copy of said notice, as well as the names and addresses of the parties notified, shall be filed with the Court at the time and place of audit together with a certificate of notice executed by counsel). **(Strike out subsection (1) or (2), whichever is inapplicable).**

(b) Shall be given notice of the filing of the account, the statement of proposed distribution and of the time and place of audit as required by the Rule of Court.

6. The decedent did not marry after the execution of the will and codicils (if any) and there were \_\_\_\_\_ children born to or adopted by the decedent thereafter.

(Insert the names of any after-born or adopted children and dates of birth or adoption. In either case, state the names and residences of the spouse and children).

7. Charitable bequests are/are not involved:

(Proof of service pursuant to Supreme Court O.C.R.).

8. Pennsylvania Transfer Inheritance and Estate Tax are paid in full. Notice of the filing of Appraisement by the Pennsylvania Department of Revenue was filed in the Office of the Register of Wills of Tioga County, Pennsylvania on \_\_\_\_\_, 20\_\_\_\_, appraising the estate at \$\_\_\_\_\_. The Register of Wills allowed debts and deductions of \$\_\_\_\_\_, making a taxable estate for \_\_\_\_\_ Inheritance Tax purposes of \$\_\_\_\_\_. Inheritance Tax at the rate of \_\_\_\_\_ ( \_\_\_\_\_ %) per cent, amounted to \$\_\_\_\_\_. The dates and amounts of payments thereon, are as follows:

<u>Date of Payment</u>	<u>Payment</u> + <u>Credit</u>	<u>Total Payment and Credit</u>
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9. The names and addresses of unpaid creditors from whom the accountant has received written notice, the amount of their claims, and whether or not such claims are admitted to be correct, as well as the names of any other unpaid claimants of whom the accountant has notice or knowledge, are as follows:

(If too many for the space annex a list thereof; if no such claim, insert the word "none").

10. The decedent was \_\_\_\_\_, at the time of death, a fiduciary in another estate which has not been terminated by a final adjudication or in writing by receipt and release, agreement or other form of written release.

(If so, state the present status thereof and the Court, term and number thereof, if any).

11. No share of any beneficiary has been assigned or attached, except:

(If none, so state "none").

12. The estate is/is not subject to Federal Estate Tax. A Federal Estate Tax Closing Letter has/has not been received dated \_\_\_\_\_.



13. State of Facts relating to proposed distribution:

(The Accountant should recite the material facts and material parts of the will (or Intestate Laws) which govern the distribution of the assets of the Fiduciary).

14. The following are questions which require adjudication by the Court:

(Frame issues such as in a pleading in the form of questions which the Court must answer in order to determine the proper distribution of the assets. Also indicate after each question the Accountant's interpretation of any dispute or fairly disputable question. If there are no questions which require adjudication by the Court, so state).

15. An itemization of additional charges and/or credits sought to be included in the adjudication for receipts or disbursements not set forth in the account is as follows:

(If none, insert the word "none". With the exception of filing fees and credits of a minor nature, credits not set forth herein shall not be considered or approved by the Court, including, but not limited to commissions, and/or fees of fiduciaries or their counsel, unless written notice thereof has been given to all parties in interest, at least ten (10) days prior to the date of audit, in which event the same shall be set forth on the appearance slip of the attorney for the accountant, and further, in such event, copies of the aforesaid written notice shall be submitted with the appearance slip of the attorney for the accountant, and further, in such event, copies of the aforesaid written notice shall be submitted with the appearance slip for the attorney for the accountant).

16. A reserve is/is not requested,

(Strike out the inapplicable word or words. If a reserve is requested, state the amount and purpose thereof).

**WHEREOF**, we propose to distribute the assets as follow:

<u>Name of Distributee</u>	<u>Account Value</u>	<u>Fair Market Value</u>
	_____	_____
TOTAL DISTRIBUTION	_____	_____
	_____	_____

\_\_\_\_\_  
Accountant

COMMONWEALTH OF PENNSYLVANIA :  
 :SS  
COUNTY OF TIOGA :

\_\_\_\_\_, the within names petitioner(s) being duly sworn, depose(s) and say(s) that the facts set forth in the foregoing petition which are within the affirmed/personal knowledge of the petitioner(s) are true, and as to facts based on the information of other, the petitioner(s), after diligent inquiry, believe(s) them to be true.

\_\_\_\_\_  
Signature(s) of Individual Petitioner(s)

Sworn to and subscribed before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

COMMONWEALTH OF PENNSYLVANIA :  
 :SS  
COUNTY FO TIOGA :

\_\_\_\_\_, being duly sworn according to law, depose and says that he is the \_\_\_\_\_ of the above names \_\_\_\_\_ and that the facts set forth in the foregoing petition which are within the personal knowledge of the deponent are true, and as to facts based on the information of others, the deponent, after diligent inquiry, believes them to be true.

\_\_\_\_\_  
Signature of Officer of Corporate Petitioner

Sworn to and subscribed before me  
This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_