

IN THE SUPREME COURT OF PENNSYLVANIA

**RE: AMENDMENT TO ORPHANS'
COURT RULE 5.6 AND ADOPTION:
OF RULE 5.7**

: NO 213

: SUPREME COURT RULES DOCKET NO.1.

ORDER

Per Curiam:

Now, this 23rd day of December, 1998, upon the recommendation of the Orphans'

Court Procedural Rules Committee; the proposal having been published *for* adoption at 25 *Pa. Bulletin* 2802-280-1 (July 16, 1995) and 26 *Pa. Bulletin* 4079 (August 24, 1996):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Orphans' Court Rule 5.6 is amended and new Rule 5.7 is adopted, all in the following form, and shall apply to decedents dying on or after January 1, 1999.

Rule 5.6 as adopted on April 30, 1992 shall continue to apply to decedents dying on or after July 1, 1992 and before the date of adoption of these amendments.

This Order shall be processed in accordance *with Pa.R.J.A. 103(b)*, and shall be effective January 1, 1999.

Title 231. RULES OF CIVIL PROCEDURE
Part II. ORPHANS' COURT RULES
RULE 5. NOTICE

Rule 5.6. Notice to Beneficiaries and Intestate Heirs.

- (a.) *Requirement of notice.* Within three (3) months after the grant of letters, the, personal representative to whom original letters have been granted or the **personal representative's** counsel shall send a written notice of **estate administration** in the form **set forth in Rule 5.7.**
- (1) every person, corporation, association, entity, or other party named in decedent's will as an outright beneficiary whether individually or as a class member;
 - (2) **the decedent's spouse and children, whether or not they are named in, or have an interest under, the will;**
 - (3) **where there is an intestacy in whole or in part, to every person entitled to inherit as an intestate heir under Chapter 21 of the *Probate, Estate, and Fiduciaries Code*;**
 - (4) the appointed guardian of the estate, parent, or legal custodian of any beneficiary who is a minor child under the age of **eighteen** (18) years;
 - (5) the appointed guardian of the estate or, in the absence of such appointment, the institution or person with custody of any beneficiary who is an adjudicated **incapacitated person**;
 - (6) the Attorney General on behalf of any charitable beneficiary whose interest exceeds \$25,000 or which will not be paid in full;
 - (7) the Attorney General on behalf of any governmental beneficiary; (8) the trustee of any trust which is a beneficiary; and
 - (9) such **other persons and in such manner as may be required by any local rule of court.**
- (b.) *Definition of beneficiary.* "Beneficiary" shall be deemed to include any person who may have an interest by virtue of the Pennsylvania anti-lapse statute, 20 Pa. C.S. s2514.
- (c.) *Manner of notice.* Notice shall be given by personal service or by first-class, prepaid mail to each person and entity entitled to notice under subdivision (a)(1)-(9) whose address is known or reasonably available to the personal representative.
- (d.) *Certification of notice.* Within ten (10) days after giving the notice required by subdivision (a) of this Rule, the personal representative or **the personal representative's** counsel shall file with the Register or Clerk a certification in the form **set forth in Rule 5.7(b)** that notice has been given as required by this Rule. No fee shall be charged by the Register or Clerk for filing the certification required by this subdivision.
- (e.) *Failure to file certification.* Upon the failure by **the personal representative** or the personal representative's counsel to file the certification on a timely basis, the' Register shall, after ten (10) days prior written notice to the delinquent **personal representative** and his counsel, notify the Court of such delinquency.

Official Note: The 1998 amendment to subdivision (e) is not intended to limit the inherent power of the Court to impose sanctions upon a delinquent personal representative or counsel.

(f) *Effect of notice.* This Rule shall not alter, diminish or confer **existing rights**.

(g) *Copies of rule.* The Register shall deliver a copy of **Roles 5.6 and 5.7** to each personal representative and counsel at the time letters are granted.

Official Note: It is not the intention of the Rule to require notice beyond the degree of consanguinity entitling a person to inherit under Chapter 21 of the *Probate, Estates and Fiduciaries Code*.

(Editor's Note: The form of Notice and Certification following Rule 5.6 is rescinded and new Rule 5.7 is adopted to replace the form of Notice and Certification.)