

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

**IN RE: AMENDMENT TO COURT OF CHANCERY RULES TO
 AMEND SECTION X, RULE 79, SECTION XI, RULE 89,
 SECTION XIII, RULE 114, AND SECTION XVII, RULES 176
 AND 180-B**

This 15th day of January 2021, IT IS HEREBY ORDERED that the Court of Chancery Rules Section X, Rule 79, Section XI, Rule 89, Section XIII, Rule 114, and Section XVII, Rules 176 and 180-B shall be amended, effective January 29, 2021.

Rule 79. Books and records kept by the Register and entries therein.

(a) Docket. -- The Register shall maintain the electronic dockets containing all Chancery actions as reflected in Rule 79.1.

(aa) Notation of judicial action. -- The Register shall make appropriate docket entries noting briefly judicial action in every matter whenever it occurs. Among such entries will be the following:

(1) The date when an oral argument is heard; by what judge and its subject matter, i.e., upon what kind of a motion or issue.

(2) The date or dates of all trials, the name of the trial judge and the elapsed trial time.

(3) The date of any decision by the Court and the name of the judge rendering it.

(4) The date of the filing of an opinion, its subject matter and the name of the judge rendering it.

(5) The fact, if it be a fact, that the opinion was written without oral argument, i.e., upon briefs, etc.

(b) Judicial statistics. -- The Register shall keep such judicial statistics in such form as the Court shall direct.

Rule 89. Bonds of fiduciaries.

Each bond filed in the Court of Chancery after December 1, 1969, shall be in the form and manner prescribed by the Court and submitted to the Register in Chancery or filed electronically.

Rule 114. Timing of accountings.

(a) Each guardian of the property or trustee appointed by the Court and each trustee named in a will and required to account by statute or the express provisions of a will shall file with the Register in Chancery and submit to the Court for approval an accounting identifying (1) the value of the account at the beginning of the covered period, (2) each receipt or disbursement made during the covered period, and (3) the value of the account at the end of the covered period.

(b) Trustee accountings. -- A trustee shall file the first trust accounting within ninety days after the one (1) year anniversary from the funding of the trust, and the covered period shall be the first twelve (12) months of the administration of the trust. Further trust accountings shall be filed at least once every two years and the covered period shall be the two years of trust administration that followed the covered period for the last accounting and shall be filed within ninety days of the end of the covered period of each accounting. At such other times as it deems appropriate, the Court may direct a trustee to file an accounting.

(c) Guardianship accountings. --

(1) Each guardian of the property shall file a first accounting no later than nine months after the date of the guardian's appointment, and the covered period for the first accounting shall be the first six (6) months of the guardian's administration of the property of the person with a disability, with such covered period beginning on the date the guardian is appointed. Thereafter, the guardian shall file an annual accounting no later than the first business day of the calendar quarter in which the guardian was appointed. The covered period for each guardianship accounting after the first accounting shall be twelve (12) months of the guardian's administration of the property of the person with a disability, with each covered period beginning the day after the final day of the previous accounting. At such other times as it deems appropriate, the Court may direct a guardian to file an accounting.

(2) The guardian shall attach to each accounting, except the first accounting and the final accounting, the annual update and medical statement required by Rule 180-B of these rules. No accounting shall be approved before the annual update and medical statement is provided, except the Office of Public Guardian may provide its own review form in lieu of the annual update and medical statement required by Rule 180-B.

Rule 176. Appointment of attorney ad litem upon petition for appointment of guardian; service and notice of hearing.

(a) Appointment and duties of attorney ad litem. -- Upon the filing of a petition for appointment of a guardian of an adult person with an alleged disability, the Court shall appoint a member of the Delaware Bar to represent the person with an alleged disability if such person is not otherwise represented by counsel, to receive notice

on behalf of such person and to give actual notice to such person, explain his or her rights, and explain the nature of the proceeding. The attorney ad litem shall represent the best interests of the person with an alleged disability and shall conduct a reasonable investigation into the allegations of the petition, the fitness of the proposed guardian, and all pertinent facts. If the attorney ad litem determines the wishes of the person alleged to be disabled diverge from his or her best interests, the attorney ad litem shall advise the Court. The Court may appoint a second attorney to represent the person with an alleged disability as if engaged by such person and may hold a hearing to determine whether a guardian should be appointed. The Court, in its discretion, may appoint an attorney ad litem to represent a minor.

(b) Appointment of fact finder. -- The Court may appoint an impartial fact finder to report to the Court concerning the matter.

(c) Report and fees of attorney ad litem or fact finder. -- In all cases in which the Court has appointed an attorney ad litem or fact finder under this rule, the attorney shall file a report and recommendation with the Court as directed in the Order of the Court. The attorney shall also file an affidavit of time expended on the matter and a request for a fee and costs. The fee and costs shall not exceed \$ 750 unless the attorney requests and supports a greater fee and the Court finds that payment of a fee great than \$ 750 is in the best interest of the person with an alleged disability. In all cases, the petitioner shall pay the fee and costs associated with the attorney ad litem or fact finder within thirty (30) days of the appointment of the guardian, unless the Court finds that such fee and costs should be paid by the person with an alleged disability.

(d) Service on person with an alleged disability. The attorney ad litem shall provide actual notice of the petition and hearing to the person with an alleged disability at least ten (10) days before the hearing unless, for cause shown, the Court shortens the time.

(e) Notice to others. -- Notice of the time, place and purpose of the hearing shall be given by registered or certified mail, return receipt requested, or by FedEx, United Parcel Service, or any other courier service that provides real-time tracking of delivery, by or on behalf of the petitioner to the attorney-in-fact of the person with an alleged disability, to any attorney identified in Rule 175(a)(7), and to all interested parties as defined by Rule 175(a)(3) unless, for cause shown, the Court concludes that any such notice is likely to result in harm to the person with an alleged disability. Notice need not be given to any interested party who has consented in writing to the granting of the petition or has waived such notice.

(f) Proof of service and notice. -- Proof of service and of notice shall be filed with the Register in Chancery prior to the hearing.

Rule 180-B. Powers and duties of guardian.

All references to guardians in these Rules shall be applicable to guardians for persons with a disability appointed under Chapter 39 of Title 12 after July 8, 1993 and to trustees and guardians appointed under former statutes 12 Del. C. Chapter 37 and Chapter 39.

All guardians of the person and/or property of any person with a disability shall file a status report with the Register in Chancery each year no later than the first business day of the quarter in which the guardian was appointed. The status report shall inform the Court of the current mailing address of both the person with a disability and the guardian, and shall provide to the Court a current medical statement from an approved medical practitioner setting forth the current medical status of the ward and addressing the need for a continued guardianship. The status report shall be in the form provided by the Court, except the Office of the Public Guardian may provide its own review form, subject to the Court's approval.

FORMS. Forms are available on the Court's website.