

**RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY**  
**PART V. RULES GOVERNING PRACTICE IN THE CHANCERY DIVISION,**  
**FAMILY PART**  
**CHAPTER II. SPECIFIC CIVIL ACTIONS**  
**RULE 5:10. ACTION FOR ADOPTION OF A CHILD**

**Rule 5:10-1. Venue**

An action for the adoption of a child, shall be brought or the venue laid in the county where the plaintiff is domiciled, except that if the child to be adopted is in the custody and control of an approved agency, the action may be brought or the venue laid in the county in which such approved agency has an office.

**Note:** Source-R. (1969) 4:94-1(a). Adopted December 20, 1983, to be effective December 31, 1983.

**Rule 5:10-2. Caption of Complaint; Waiver of Filing Fees**

(a) The complaint in an action for the adoption of a child shall be verified and shall state the title of the action as "In the matter of the adoption of a child by \_\_\_\_\_.

(b) Each complaint shall address only one adoptee. However, the supporting documentation for a sibling group being adopted by a single family may be submitted as one set of documents that supports all the siblings' complaints for adoption.

(c) In cases involving multiple children, the filing fee or fees for the additional children may be waived at the discretion of the Surrogate upon the plaintiff's showing of financial hardship.

**Note:** Source - R. (1969) 4:94-2(a). Adopted December 20, 1983, to be effective December 31, 1983; caption amended, text amended and designated as paragraph (a), and new paragraphs (b) and (c) adopted July 21, 2011 to be effective September 1, 2011.

**Rule 5:10-3. Contents of Complaint**

(a) Complaint. The complaint shall state:

(1) The name, age, citizenship and domicile of each plaintiff and the relationship, if any, of each plaintiff to the child to be adopted.

(2) The name, age and citizenship of the spouse, civil union partner or domestic partner of the plaintiff (if such person is not also a plaintiff), and the relationship, if any, of such person to the child to be adopted.

(3) The name, age, date of birth and birthplace of the child to be adopted; or if unknown to the plaintiff or plaintiffs, the complaint shall so state.

(4) The date of the child's placement in the adoptive home and, if applicable, a statement that the complaint has been filed early pursuant to N.J.S.A. 9:3-47(a).

(5) The name, age and birthplace of all biological and adopted children of the plaintiff or plaintiffs.

(6) The name, age and birthplace of all biological and adopted children of the spouse, civil union partner, or domestic partner of the plaintiff (if such person is not also a plaintiff).

(7) The name of the approved agency or other source from which the plaintiff or plaintiffs received the child to be adopted, including proof of the manner in which the child became legally free for adoption or a statement that parental rights have not been terminated.

(8) The date of commencement of each period during which the child to be adopted came under the continuous care of the plaintiff or plaintiffs, and the duration of each such continuous period. If the child has not been received from or with the approval of an approved agency and the complaint has not been filed promptly as required by statute, a statement of the reasons for the delay shall be made.

(9) The name and residence of each biological or legal parent and guardian or custodian of the child to be adopted. If such is unknown to the plaintiff or plaintiffs, or if deceased, the complaint shall so state. If unknown, there shall be annexed to the complaint an affidavit stating the extent of their inquiry and knowledge with respect thereto. Such affidavit may be executed by the plaintiff or plaintiffs, the biological or legal parent placing the child, the child's guardian or any combination thereof. The plaintiff or plaintiffs also shall submit an affidavit stating the circumstances under which the child was received into their home. Such affidavit or affidavits may be omitted if the child to be adopted was received by the plaintiff or plaintiffs from an approved agency.

(10) Whether or not either biological or legal parent of the child to be adopted has been granted a divorce, dissolution of a civil union or termination of a domestic partnership from the other biological or legal parent, unless such information is unknown to the plaintiff or plaintiffs. If unknown, the complaint shall so state.

(11) A full description of all property belonging to the child to be adopted. If none or unknown, the complaint shall so state.

(12) The name by which the child to be adopted shall be known.

(13) The occupation of the plaintiff or plaintiffs, and an allegation that the plaintiff or plaintiffs are able to support the child to be adopted.

(14) If the spouse, civil union partner or domestic partner of a plaintiff has consented to the proposed adoption, such consent shall be annexed to the complaint or appended thereto.

(15) If the plaintiff or plaintiffs shall have received the child to be adopted from or with the approval of an approved agency, the consent of such approved agency to the proposed adoption shall be annexed to the complaint or appended thereto.

(16) That neither the child nor the child's biological parents are members or eligible to be members of a federally recognized Indian tribe in accordance with the requirements set forth in *R. 5:10-6*.

(17) Any and all prior addresses where each plaintiff and any adults in the adoptive home have resided within the last five years.

(b) Domestic Agency Adoptions; Attachments. For every domestic agency adoption, in addition to the complaint requirements set forth in paragraph (a) of this rule, there shall be attached to the complaint the following:

(1) A report of consideration and expenses in accordance with *N.J.S.A. 9:3-55(a)*.

(2) Home study report.

(3) The results of criminal history and child abuse record information checks, including a statement as to waiver of objection regarding those results. Such checks shall be conducted within one year prior to the filing of the complaint for each person 18 years of age or older in the adoptive household.

(4) The signed original agency consent to the adoption dated within 120 days prior to the filing of the complaint, and if applicable, the agency's signed original consent to early filing of the complaint pursuant to *N.J.S.A. 9:3-47(a)*.

(5) The agency shall certify as follows:

(A) An explanation and evaluation of the results of the fingerprint checks as it concerns the proposed adoption;

(B) A termination of parental rights judgment is not pending appeal;

(C) The agency is unaware of any pending concurrent adoption action existing in another county;

(D) The plaintiff or plaintiffs have been provided with full disclosure of the adoptee's known life and medical history and the biological parents' known medical history;

(E) Whether the plaintiff or plaintiffs have entered into a subsidy agreement if applicable;

(F) No adult member of the adoptive household has been convicted of a crime that bars adoption pursuant to the Adoption and Safe Families Act (ASFA); and

(G) In cases involving the Division of Child Protection and Permanency, the adoptee's verified current social security number, and that the card will be supplied to the plaintiff or plaintiffs if available.

(6) Form of order fixing a hearing date.

(7) Interstate Compact on the Placement of Children authorization form that approves the placement, if applicable.

(8) When a child is placed for adoption by a private adoption agency, and termination of parental rights has not been granted or the biological or legal parents have not surrendered their rights, the complaint must have attached to it an affidavit of non-military service in accordance with *R. 1:5-7*.

(c) Private Adoptions; Attachments. For every private adoption, in addition to the complaint requirements set forth in paragraph (a) of this rule, there shall be attached to the complaint the following:

(1) A report of consideration and expenses in accordance with *N.J.S.A. 9:3-55(a)*, except where the plaintiff is a stepparent, brother, sister, grandparent, aunt, uncle, or biological father of the child.

(2) Affidavit of the circumstances under which the child was received in the adoptive home.

(3) In the case of a second-parent or co-parent adoption, the complaint shall be the same as that of a stepparent adoption.

(4) When termination of parental rights has not been granted or the biological or legal parents have not surrendered their rights, the complaint must have attached to it an affidavit of non-military service in accordance with *R. 1:5-7*.

(5) Form of order setting a date for a preliminary or final hearing.

(d) Affidavit of Verification and Non-Collusion. There shall be attached to every complaint for adoption an oath or affirmation by the plaintiff or plaintiffs that the allegations of the complaint are true to the best of the party's knowledge, information and belief, and that the pleading is made in truth and good faith and without collusion for the causes set forth therein.

**Note:** Source - R. (1969) 4:94-2(c), (d), (e). Adopted December 20, 1983, to be effective December 31, 1983; text designated as paragraph (a), former paragraphs (a), (b), and (c) redesignated as subparagraphs (a)(1), (a)(2), and (a)(3), new subparagraph (a)(4) adopted, former paragraphs (d) through (n) redesignated as subparagraphs (a)(5) through (a)(15), new subparagraphs (a)(16) and (a)(17) adopted, and new paragraphs (b), (c), and (d) adopted July 21, 2011 to be effective September 1, 2011; subparagraph (b)(5)(G) amended July 9, 2013 to be effective September 1, 2013.

#### **Rule 5:10-4. Surrogate Action**

(a) Review of Complaint Prior to Docketing. Prior to docketing, the Surrogate shall review the complaint to ensure that proper venue is laid in accordance with *R. 5:10-1*, and that it contains the following:

(1) all information required by *R. 5:10-3*,

(2) a current address and any prior addresses within the last five years for each plaintiff,

(3) the names, dates of birth and all residences within the past five years of all other adults in the adoptive home,

(4) the marital, domestic union, or civil union status of each plaintiff and the name of the spouse or partner, if such person is not also a plaintiff, and

(5) a home study report that is consistent with the information set forth in the complaint.

(b) Jurisdiction.

(1) Upon the filing of a complaint for the adoption of a child, if it appears therefrom that there is jurisdiction and that each plaintiff is qualified, as required by statute, and that the complaint is substantially complete in all respects, the complaint shall be

docketed. At the time of docketing, the Surrogate's staff shall conduct a party look-up in the Judiciary case management system to determine if any of the parties exist in the court's system. If a party exists in the system, the party's demographic information shall be copied into the adoption case using the process in the Judiciary's case management system.

(2) The court shall fix a day for preliminary or final hearing as provided by statute. The Surrogate shall provide the entire adoption file to the court for review no later than five business days before the first adoption proceeding.

(3) Upon the court fixing a day for preliminary or final hearing in private placement adoptions, the Surrogate shall append to the court's order a form promulgated by the Administrative Director of the Courts informing the child's parents of the procedure to object to the adoption, the right to legal counsel, and how to apply for a court-appointed attorney. The signed order and form shall be returned to the plaintiff for service of the form and notice of the hearing on the child's parents pursuant to N.J.S.A. 9:3-45.

(4) If there is a lack of jurisdiction or lack of qualification on the part of a plaintiff the court shall dismiss the complaint forthwith. If a complaint is not substantially complete in all respects, the court shall order the plaintiff to file an amended complaint or shall dismiss the complaint without prejudice, as the situation requires.

**Note:** Source - R. (1969) 4:94-3. Adopted December 20, 1983, to be effective December 31, 1983; caption amended, former text redesignated as paragraph (b), paragraph (b) caption adopted, paragraph (b) amended, and new paragraph (a) adopted July 21, 2011 to be effective September 1, 2011; former subparagraph (b)(3) redesignated as subparagraph (b)(4) and new subparagraph (b)(3) adopted May 30, 2017 to be effective immediately.

### **Rule 5:10-5. Post-Complaint Submissions**

(a) At least ten business days before a preliminary hearing the following shall be filed with the court:

(1) For private stepparent adoptions and direct private placement adoptions, fingerprint and Division of Child Protection and Permanency name checks.

(2) Proposed form of order for execution upon completion of preliminary hearing.

(3) Proof of service on the biological or legal parent or parents or any of the following if not previously submitted:

- (A) Termination of parental rights judgment;
- (B) Parent's death certificate;
- (C) Affidavit of diligent inquiry to locate the parent or parents;
- (D) Surrender of parental rights to agency;
- (E) Judicial surrender order;
- (F) Denial of paternity form;

(G) Evidence that the biological father does not appear on the child's birth certificate, and he has not taken action pursuant to *N.J.S.A. 9:3-45(b)(6)*;

(H) The notice of intent to place the child for adoption pursuant to *N.J.S.A. 9:3-45(b)(3)* with no objection having been filed;

(I) Affidavit executed by the placing parent that the parent cannot identify or refuses to identify the other biological or legal parent.

(4) For private stepparent adoptions and direct private placement adoptions, the Notice of Rights in an Adoption Proceeding (Private/Non-Agency Placement) form as promulgated by the Administrative Director of the Courts. If the Private/Non-Agency Placement form is served on, but not filed by, the parent, proof of service on the parent must be filed.

(5) For private agency adoptions, the Notice of Rights in an Adoption Proceeding (Agency Placement) form as promulgated by the Administrative Director of the Courts. If the Agency Placement form is served on, but not filed by, the parent, proof of service on the parent must be filed.

(b) At least ten business days before a final hearing, the following shall be filed with the court, unless previously submitted:

(1) A proposed judgment of adoption for each child being adopted.

(2) Final agency report or reports.

(3) Consent from agency for private agency placements.

(4) Proof of service or affidavit of inquiry on a biological or legal parent or parents in cases where the Division of Child Protection and Permanency did not place the child, if parental rights have not been previously terminated, or irrevocably surrendered in the case of an agency placement.

(5) An approved Interstate Compact for the Placement of Children request if applicable.

(6) Report of adoption form from Bureau of Vital Statistics. For children born outside of New Jersey, the plaintiff or plaintiff's attorney is responsible for obtaining the amended birth certificate.

(7) Check payable to "Treasurer, State of New Jersey" if the child was born in New Jersey or if the action seeks a foreign readoption or an adoption of a child born in a foreign country.

(8) For adoptions in which a foreign country conveyed guardianship or custody for the purpose of adoption in the United States:

(A) Post-placement reports from the approved adoption agency if required by the court,

(B) The final court report of the approved New Jersey adoption agency supervising the placement, and

(C) The final consent of adoption from the approved New Jersey adoption agency supervising the placement.

(c) If a final hearing is waived in a non-agency private adoption pursuant to *N.J.S.A. 9:3-48(c)(4)*, the documents required in paragraph (b) must be provided to the court at least ten business days before the preliminary hearing.

(d) For adoptions in which a foreign country conveyed guardianship or custody for the purpose of adoption in the United States:

(1) If an approved New Jersey adoption agency is supervising the placement, then the court rules relating to agency adoption shall apply.

(2) If the child is placed directly with the plaintiffs for purposes of a private adoption in the United States, then the court rules relating to a direct private placement adoption shall apply.

**Note:** New Rule 5:10-5 adopted (and former Rule 5:10-5 redesignated as Rule 5:10-8) July 21, 2011 to be effective September 1, 2011; subparagraphs (a)(1) and (b)(4) amended July 9, 2013 to be effective September 1, 2013; subparagraphs (a)(2) and (a)(3)(H) amended, and new subparagraphs (a)(4) and (a)(5) adopted May 30, 2017 to be effective immediately.

#### **Rule 5:10-6. Indian Child Welfare Act**

At the first hearing following the filing of the adoption complaint, the court shall determine whether there is reason to believe that the child or either biological parent may be a member, or eligible to be a member, of a federally recognized Indian tribe, pursuant to the Indian Child Welfare Act (ICWA). If so, the court shall order an investigation, including notification to the appropriate tribe, to determine if ICWA applies. The ICWA findings shall be made on the record and documented in a court order.

**Note:** New Rule 5:10-6 adopted (and former Rule 5:10-6 redesignated as Rule 5:10-9) July 21, 2011 to be effective September 1, 2011.

#### **Rule 5:10-7. Judicial Surrender of Parental Rights**

(a) Procedure. A biological or legal parent may surrender his or her parental rights before the court. Upon filing of a written request for surrender by a biological or legal parent or the biological or legal parent's attorney, a hearing shall be scheduled on an expedited basis by the Surrogate in the county where the biological or legal parent or parents reside, if a resident of New Jersey; or in the county where the child was born if born in New Jersey; or in the county where the adoptive parents reside; or where the complaint for adoption is filed.

(b) Contents of Request for Judicial Surrender. The written request shall contain:

(1) Certification of biological or legal parents consenting to adoption;

(2) Good faith representation that the child is not a member of or eligible to be a member of a federally recognized Indian tribe;

(3) Dates of availability to appear for a hearing within seven days of filing;  
and

(4) Proposed form of order.

(c) Hearing. The court shall conduct a closed hearing on the record within seven days of filing to determine if the surrender is voluntary. Surrendering parent or parents shall be advised that (1) the hearing is to surrender parental rights; (2) the hearing is to permanently end the relationship and all contact between parent and child; (3) the action is a relinquishment and termination of parental rights and consent on the part of the biological or legal parent to adoption; and (4) no further notice of adoption proceedings shall be provided to the biological or legal parent if the surrender is accepted by the court.

(d) Surrenders Pursuant to N.J.S.A. 9:3-41. This rule shall not prohibit approved adoption agencies or the Division of Child Protection and Permanency from accepting surrenders of parental rights pursuant to N.J.S.A. 9:3-41.

**Note:** New Rule 5:10-7 adopted (and former Rule 5:10-7 redesignated as 5:10-10) July 21, 2011 to be effective September 1, 2011; paragraph (d) amended July 9, 2013 to be effective September 1, 2013.

### **Rule 5:10-8. Preliminary Hearing**

(a) Order. If the court shall enter an order for a preliminary hearing as provided by statute, the plaintiff shall mail a copy of the order, together with a copy of the complaint, to the approved agency appointed by the order to make an investigation and report. At least 5 days prior to the day fixed for the preliminary hearing, the approved agency shall file its report with the court and mail a copy thereof to the plaintiff. The medical histories of the biological parents shall also be submitted to the court and shall be retained in the court's file. If no medical history is available or if the biological parent or parents refuse to complete one, the approved agency shall note that in its report to the court.

(b) Background Checklist and Certification by Approved Agency. The approved agency shall provide to the court a background checklist and certification on a form prescribed by the Administrative Director of the Courts, which shall include criminal history record information and child abuse record information. If the approved agency discovers a pattern of arrests or domestic violence restraining orders against the plaintiffs or other household members over the age of 18 that may impact approval of the home, the form submitted to the court shall include this information. The agency shall certify that, considering all criminal, domestic violence or child abuse records known to the agency, it is in the best interest of the child that the adoption be finalized.

(c) Hearing; Notice. At any time during or after the preliminary hearing, the court may require the production of additional testimony, may subpoena additional witnesses, or may direct that notice of the proceeding shall be given to any persons whose interests may be prejudiced or affected by the entry of a judgment of adoption. The court shall direct that notice of the proceeding be given to the biological or legal parents of the child unless notice has been waived by them, or the court dispenses with notice on proof by affidavit of diligent inquiry establishing that notwithstanding such inquiry the location of the biological or legal parents cannot be ascertained, or unless a court of competent jurisdiction has, on

notice to the biological or legal parents, terminated their parental rights. The court may continue the hearing as the situation requires and shall direct the manner in which any required notice shall be given, except that no notice shall be given by publication.

(d) Dismissal; Amendment; Right to Object. If in the course of the preliminary hearing the court determines that there is lack of jurisdiction or lack of qualification on the part of a plaintiff, or that the child is in the custody of an approved agency and such agency has not consented to the filing of the complaint and entry of a judgment of adoption, the complaint shall be dismissed forthwith. If the court determines that a complaint is not substantially complete in all respects, the plaintiff shall be required to file an amended complaint or the complaint shall be dismissed without prejudice, as the situation requires. Whenever a right to object to an adoption, or right to object to placement of a child for adoption exists, written objection shall be filed with the Surrogate of the County of venue. The notice of right to object shall include the proper address and telephone number for the Surrogate. If an objection is made, notice of such objection shall be sent by the Surrogate to the person, or agency, filing the original action and to the court.

**Note:** Source-R. (1969) 4:94-4(a), (b), (c). Adopted as Rule 5:10-5 December 20, 1983, to be effective December 31, 1983; paragraph (c) caption and text amended November 7, 1988 to be effective January 2, 1989; redesignated as Rule 5:10-8, paragraph (a) amended, new paragraph (b) caption and text adopted, former paragraph (b) redesignated as paragraph (c) and amended, and former paragraph (c) redesignated as paragraph (d) July 21, 2011 to be effective September 1, 2011.

### **Rule 5:10-9. Order Upon Preliminary Hearing**

If upon completion of a preliminary hearing the court is satisfied to proceed with the adoption, an order shall be entered reciting the findings required by statute as a basis therefor, fixing a day for final hearing, appointing an approved agency as next friend, unless such appointment shall be dispensed with as provided by statute, and declaring that, from the date of such order:

(a) The rights, duties, privileges and relations theretofore existing between the child and each biological or legal parent or other custodian or guardian theretofore appointed for such child shall be in all respects at an end;

(b) The child may be known by the name proposed in the complaint, except that the birth record shall not be amended pending entry of judgment;

(c) The plaintiff or the plaintiffs may act in their own names in providing for the health and education of the child; and

(d) The plaintiff or plaintiffs shall not remove the child from this State, other than for vacations or temporary visits, except upon order of the court.

An order entered pursuant to this rule shall be deemed final for the purposes of appeal.

**Note:** Source - R. (1969) 4:94-5. Adopted as Rule 5:10-6 December 20, 1983, to be effective December 31, 1983; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; redesignated as Rule 5:10-9 and paragraph (a) amended July 21, 2011 to be effective September 1, 2011.

### **Rule 5:10-10. Petition for Modification or Revocation of an Order**

A petition by any plaintiff or by the next friend appointed by the court, or by any other person or persons interested in the welfare of the child, for an order modifying or revoking any order entered in a proceeding for the adoption of a child, shall be verified and shall be served on each plaintiff and upon the next friend, if one shall have been appointed, unless such party shall have joined in such petition.

**Note:** Source - R. (1969) 4:94-6. Adopted as Rule 5:10-7 December 20, 1983, to be effective December 31, 1983; redesignated as Rule 5:10-10 July 21, 2011 to be effective September 1, 2011.

### **Rule 5:10-11. Final Hearing**

In each action in which no order is entered for a preliminary hearing, the clerk of the court shall cause at least 5 days notice of the time and place of the final hearing, together with a copy of the complaint, to be mailed to the approved agency which placed or approved the placement of the child in the home of the plaintiff and which consented to the adoption. Such agency shall file a written report at the final hearing as to all circumstances of the case which will enable the court to make a proper decision in the matter.

**Note:** Source - R. (1969) 4:94-7. Adopted as Rule 5:10-8 December 20, 1983, to be effective December 31, 1983; redesignated as Rule 5:10-11 July 21, 2011 to be effective September 1, 2011.

### **Rule 5:10-12. Judgment of Adoption; Procedures for Closing and Sealing Adoption Records**

(a) Judgment. A separate judgment of adoption shall be entered for each adoptee and shall include the following:

(1) The identity of the child being adopted, using only the initials of the child's birth name, except in stepparent or second parent adoptions or in foreign adoptions or readoptions where the full birth name of the child may be included.

(2) The gender, date of birth, and city and state or foreign country of birth of the child.

(3) The date of placement of the child with the adopting party.

(4) The name of the adoption agency, if the placement was made by an approved agency, and that the agency has consented to the adoption.

(5) Reference to any prior order of the court wherein parental rights and/or federal Indian Child Welfare Act issues were addressed.

(6) Termination of all parental relationships, rights, and responsibilities, including the right of inheritance through intestacy, of the birth parents or other guardians of the child, except those rights that have vested prior to the entry of the judgment of adoption.

(7) Confirmation that all federal Indian Child Welfare Act requirements have been fulfilled pursuant to Rule 5:10-6.

(8) Granting the adoption, which establishes between the child and the adopting party all parental relationships, rights, and responsibilities, including the right of inheritance through intestacy.

(9) The new name by which the child shall be known.

(10) An order directing the New Jersey Bureau of Vital Statistics, or authorizing a registrar in the child's state of birth if other than in New Jersey, to issue a birth certificate in the child's new name and listing the adoptive parent as the child's parent.

(b) Filing. An original and copy of the judgment shall be filed with the court.

(c) Costs. If costs are allowed by the court to an approved agency, they shall be included in the judgment.

(d) Certified Copies. Prior to sealing the record of the proceedings the clerk shall, upon payment of the appropriate fee, provide the plaintiff, the plaintiff's attorney, the Clerk of the Superior Court, and the approved agency which made the adoptive placement with certified copies of the judgment.

(e) Report of Adoption. Upon receipt of a check payable to the Treasurer of the State of New Jersey, the Surrogate shall submit the report of adoption along with the certified judgment of adoption to the Bureau of Vital Statistics and Registration if the child was born in New Jersey or if the adoption is a foreign readoption. If the child was born in another state, the Surrogate shall submit the report of adoption along with the certified judgment of adoption to the Bureau of Vital Statistics or such other agency of the state in which the child was born, along with a check supplied by the plaintiff or plaintiff's attorney made payable to the appropriate entity of that state.

(f) Sealing of Adoption Records. All records of proceedings related to adoption, including the complaint, judgment and all petitions, affidavits, testimony, reports, briefs, orders and other relevant documents, shall be filed under seal by the clerk of the court and shall at no time be open to inspection or copying unless the court, upon good cause shown, shall otherwise order. An index of all adoption proceedings shall be maintained by the clerk of the court, but no index of adoption proceedings shall be open to inspection or copying or be made public except by order of the court.

(g) Closing of Child Placement Case (FC docket). When an adoption case is sealed and there is a related child placement case (FC docket), the child placement case shall be closed to reflect the adoption, but only when the Division of Child Protection and Permanency (the "Division") provides the court with a Notice of Change. If the adoption occurs out of state, the Division shall provide the court with both the judgment of adoption and the Notice of Change in order to close the child placement case. These documents shall be provided to the court presiding over the child placement case no later than 30 days after the adoption judgment is entered.

**Note:** Source - R. (1969) 4:94-8(a), (b) and (c). Adopted as Rule 5:10-9 December 20, 1983, to be effective December 31, 1983; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; redesignated as Rule 5:10-12, caption amended, new paragraph (a) adopted, former paragraphs (a), (b), and (c)

redesignated as paragraphs (b), (c), and (d), paragraph (d) amended, new paragraphs (e), (f), and (g) adopted July 21, 2011 to be effective September 1, 2011; paragraphs (a), (e) and (g) amended July 9, 2013 to be effective September 1, 2013.

### **Rule 5:10-13. Requests to Unseal Adoption Cases; Procedure**

(a) The Surrogate shall accept for filing a post-judgment request to unseal an adoption, which request may be by motion or by notarized letter, and shall forward the request and a proposed order to the court. The court may, if necessary, schedule a hearing to consider the request to unseal the adoption.

(b) The court shall determine whether good cause exists to grant the request to unseal the adoption. The court shall provide to the Surrogate the signed court order denying or granting the request to unseal the adoption.

(c) If the court grants the request to unseal the adoption, the Surrogate shall provide a copy of the order unsealing the adoption to the requesting party and shall make available to the requesting party copies of the documents on file as directed by the court's order. If the Surrogate determines that an adoption did not occur in the county in which the request was received, the Surrogate shall send a letter to the requesting party indicating that there is no record of the adoption in that county and that no further action will be taken on the request.

(d) If the court denies the request to unseal the adoptions, the Surrogate shall provide a copy of the court's order denying the request to the requesting party and shall include in the sealed court file, if any, a copy of the written request and the order denying the request to unseal the adoption.

**Note:** Adopted July 21, 2011 to be effective September 1, 2011

### **Rule 5:10-14. Domestic Adoptions and Readoptions of Foreign Citizens**

(a) Complaint. In all domestic adoptions and readoptions of foreign citizens, a complaint shall be filed conforming to the requirements of *R. 5:10-3*.

(b) Contents of Complaint. In addition to the requirements of paragraph (a) of this rule, the plaintiff or plaintiffs shall allege in the complaint the following information and shall reference the attachments to the complaint that support this statement:

(1) Specific facts regarding whether the case was processed under the Hague Adoption Convention;

(2) The type of immigration visa that was issued;

(3) Whether the originating foreign country finalized the adoption or granted custody or guardianship for adoption finalization in the United States.

(c) Documents to Accompany Complaint. In addition to the requirements of paragraph (a) of this rule, the complaint shall be accompanied by the following:

(1) One of the following, as applicable:

(A) copy of foreign judgment of adoption together with, if in other than English, an English translation, with each certified to be a true and correct copy of the original by the plaintiff(s) or the attorney of record; or

(B) copy of conveyance of custody or guardianship of the child to the plaintiff or plaintiffs or placement agency for the purpose of adoption, as applicable, together with, if in other than English, an English translation, with each certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(2) Copy of birth certificate and, if in other than English, an English translation of the birth certificate, with each certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(3) Copy of child's immigration visa, certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(4) For cases processed under the requirements of the Hague Adoption Convention, a copy of the Hague Adoption Certificate or Hague Custody Declaration, as applicable, certified to be a true and correct copy by the plaintiff(s) or the attorney of record.

**Note:** Adopted July 21, 2011 to be effective September 1, 2011.

#### **Rule 5:10-15. Adoptions of United States Citizens by Residents of Foreign Countries that are Signatories to the Hague Adoption Convention**

(a) The complaint shall allege specific facts as to the applicability of the Hague Adoption Convention and whether plaintiff is seeking a New Jersey adoption or a petition for a Hague Adoption Certificate (HAC) or a Hague Custody Declaration (HCD).

(b) The court shall determine whether the Hague Adoption Convention applies in the country where the child is residing or will reside for purposes of the adoption.

(c) If the Hague Adoption Convention applies to the case, and the court is asked to issue findings and an order supporting a request for the U.S. Department of State to issue a Hague Certificate of Adoption or a Hague Declaration of Custody for the adoption placement, the court must receive sufficient evidence to conclude that the child is eligible for adoption, and find that the placement is in the best interests of the child. The court must receive evidence on all of the following:

(1) The Hague-approved adoption agency or person is accredited by the U.S. Department of State to provide intercountry adoption services for Hague cases;

(2) A child background study has been completed in accordance with the regulations governing Hague adoptions;

(3) The child is eligible for adoption under New Jersey law;

(4) The Hague-approved adoption agency or person has made reasonable efforts to place the child in the United States but was unable to do so, or that an exception to this requirement applies to the case;

(5) The agency has determined that the placement is in the child's best interest;

(6) The home study of the adoptive family was completed, which includes:

(A) information on the plaintiff or plaintiffs, such as identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an inter-country adoption, and the characteristics of the children for whom they would be qualified to care,

(B) confirmation that a competent authority has determined that the plaintiff or plaintiffs are eligible and suited to adopt and has ensured that the plaintiff or plaintiffs have been counseled as necessary, and

(C) the results of the criminal background checks;

(7) The Central Authority of the adoptive family's country of residence has declared that the child will be permitted to enter and reside permanently in the receiving country, and has consented to the adoption;

(8) All appropriate consents have been obtained in accordance with the following standards:

(A) counseling was provided to any biological or legal parent consenting to the adoption,

(B) biological or legal parents were informed of the legal effect of adoption

(C) such consent was freely given without inducement by compensation,

(D) such consent was not subsequently withdrawn, and

(E) consents were taken only after the birth of the child;

(9) The Hague-approved adoption agency or person has committed to taking all steps to ensure the secure transfer of the child, including obtaining permission for the child to leave the United States;

(10) The Hague-approved adoption agency or person has agreed to keep the foreign Central Authority informed about the status of the case;

(11) The plaintiff or plaintiffs have agreed to accept custody of the child for purposes of adoption;

(12) The Hague-approved adoption agency or person demonstrates that any contact between the birth family and the adoptive family complies with applicable state law and Hague regulations governing timing of such communications; and

(13) The agency certifies that no one is deriving improper financial gain from the adoption and describes the financial arrangement with the prospective adoptive family.

(d) The court shall make findings relating to the application for the HAC or HCD from the Department of State. To meet the requirements for an HAC or an HCD, the court's findings shall include that:

(1) the adoptive placement is in the child's best interest,

(2) the substantive regulatory requirements set forth in 22 C.F.R. 97.3(a) through (k) have been met, and

(3) the adoption services provider meets the requirements of 22 C.F.R. Part 96.

(e) If the court is satisfied that all Hague Adoption Convention requirements are met, the court shall make findings of fact and order the following:

(1) The child is eligible for adoption;

(2) The grant of custody with respect to the proposed adoption is in the child's best interests; and

(3) The court grants custody of the child to the named family for purposes of adoption, as applicable.

(f) A petition for HAC or HCD shall state specific facts that the plaintiff or plaintiffs intend to finalize in their country of residence or that they will return to New Jersey after the post-placement supervisory period to finalize the adoption in the Superior Court of New Jersey.

**Note:** Adopted July 21, 2011 to be effective September 1, 2011.

#### **Rule 5:10-16. Adoptions of United States Citizens by Residents of Foreign Countries that are Not Signatories to the Hague Adoption Convention**

Adoptions of United States citizens by residents of foreign countries that are not signatories to the Hague Adoption Convention shall conform to the rules for domestic adoptions.

**Note:** Adopted July 21, 2011 to be effective September 1, 2011.