RULES GOVERNING THE COURTS OF THE STATE OF NEW JERSEY
PART V. RULES GOVERNING PRACTICE IN THE CHANCERY DIVISION, FAMILY PART
CHAPTER I. ACTIONS COGNIZABLE; SCOPE AND APPLICABILITY OF RULES; GENERAL PROVISIONS; PROCESS; VENUE; PLEADINGS; PROCESS; APPEARANCES
RULE 5:5. PRETRIAL PROCEDURES AND PROCEDURES RELATING TO CERTAIN JUDGEMENTS

Rule 5:5-1. Discovery

Except for summary actions and except as otherwise provided by law or rule, discovery in civil family actions shall be permitted as follows:

(a) Interrogatories as to all issues in all family actions may be served by any party as of course pursuant to R. 4:17.

(b) An interrogatory requesting financial information may be answered by reference to the case information statement required by R. 5:5-2.

(c) Depositions of any person, excluding family members under the age of 18, and including parties or experts, as of course may be taken pursuant to R. 4:11 et seq. and R. 4:10-2(d)(2) as to all matters except those relating to the elements that constitute grounds for divorce, dissolution of civil union, or termination of domestic partnership.

(d) All other discovery in family actions shall be permitted only by leave of court for good cause shown except for production of documents (R. 4:18-1); request for admissions (R. 4:22-1); and copies of documents referred to in pleadings (R. 4:18-2) which shall be permitted as of right.]

(e) Discovery shall be completed within 90 days from the date of service of the original complaint in actions assigned to the expedited track and within 120 days from said date in actions assigned to the standard track. In actions assigned to the priority or complex track, time for completion of discovery shall be prescribed by case management order.

Note: Source-R. (1969) 4:79-5. Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b) amended January 10, 1984, to be effective April 1, 1984; paragraphs (c) and (d) amended November 1, 1985 to be effective January 2, 1986; paragraph (d) amended November 7, 1988 to be effective January 2, 1989; paragraph (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (e) added January 21, 1999 to be effective April 5, 1999; paragraph (c) amended July 21, 2011 to be effective September 1, 2011.

Rule 5:5-2. Family Case Information Statement

(a) Applicability. The case information statement required by this rule shall be filed and served in all contested family actions, except summary actions, in which there

is any issue as to custody, support, alimony or equitable distribution. With respect to summary actions, R. 5:5-3 shall apply. In all other family actions, a case information statement may be required by order on motion of the court or a party.

(b) Time and Filing. Except as otherwise provided in R. 5:7-2, an initial case information statement or certification that no such statement is required under subparagraph (a) shall be filed by each party with the clerk in the county of venue within 20 days after the filing of an Answer or Appearance or at any other time designated by the court. The Family Case Information Statement shall be filed in the form set forth in Appendix V of these rules. The court on either its own or a party's motion may, on notice to all parties, dismiss a party's pleadings for failure to have filed a case information statement. If dismissed, said pleadings shall be subject to reinstatement upon such conditions as the court may deem just.

(c) Amendments. Parties are under a continuing duty in all cases to inform the court of any material changes in the information supplied on the case information statement. All amendments to the statement shall be filed with the court no later than 20 days before the final hearing. The court may prohibit a party from introducing into evidence any information not disclosed or it may enter such other order as it deems appropriate.

(d) Income Tax Returns. Following the entry of a final judgment, the court shall order the return to the parties of any income tax returns filed with a case information statement under this rule.

(e) Marital, Civil Union or Domestic Partnership Standard of Living Declaration. In any matter in which an agreement or settlement contains an award of alimony, (1) the parties shall include a declaration that the marital, civil union or domestic partnership standard of living is satisfied by the agreement or settlement; or (2) the parties shall by stipulation define the marital, civil union or domestic partnership standard of living; or (3) the parties shall preserve copies of their respective filed Family Case Information Statements until such time as alimony is terminated; or (4) any party who has not filed a Family Case Information Statement shall prepare Part D ("Monthly Expenses") of the Family Case Information Statement form serving a copy thereof on the other party and preserving that completed Part D until such time as alimony is terminated.

(f) Confidentiality. The Family Case Information Statement and all attachments thereto shall be confidential and unavailable for public inspection, pursuant to R. 1:383(d)(1).

Note: Source - R. (1969) 4:79-2. Adopted December 20, 1983, to be effective December 31, 1983; amended January 10, 1984, to be effective April 1, 1984; paragraphs (b) and (e) amended November 5, 1986 to be effective January 1, 1987; paragraphs (b) and (e) amended November 2, 1987 to be effective January 1, 1988; paragraphs (a) and (e) amended November 7, 1988 to be effective January 2, 1989; paragraph (e) amended July 13, 1994 to be effective September 1, 1994; paragraph (b) amended January 21, 1999 to be effective April 5, 1999; paragraph (e) amended July 12, 2002 to be effective September 3, 2002; caption amended and new paragraph (f) adopted July 27, 2006 to be effective September 1, 2006; paragraph (c) amended, former paragraph (e) deleted and redesignated as new Rule

5:5-10, and former paragraph (f) redesignated as paragraph (e) June 15, 2007 to be effective September 1, 2007; new paragraph (f) adopted July 16, 2009 to be effective September 1, 2009; paragraph (e) caption and text amended July 21, 2011 to be effective September 1, 2011; paragraphs (a) and (b) amended July 9, 2013 to be effective September 1, 2013.

Rule 5:5-3. Financial Statement in Summary Support Actions

In any summary action in which support of a child is in issue, each party shall, prior to the commencement of any hearing, serve upon the other party and furnish the court with an affidavit or certification in a form prescribed by the Administrative Director of the Courts. The court shall use the information provided on the affidavit or certification and any other relevant facts to set an adequate level of child support in accordance with R. 5:6A. Except for applications for temporary and final domestic violence restraining orders, in summary actions involving the support of a spouse, civil union partner or domestic partner, or requests for college or post-secondary school contribution, a Family Case Information Statement must be filed pursuant to R. 5:5-2(a). In applications involving college or postsecondary school contribution, applicants must produce all relevant information including but not limited to: documentation of all costs for which contribution is sought, including but not limited to, tuition, board and books; proof of enrollment; and proof of all financial aid, scholarships, grants and student loans obtained. Pursuant to R. 5:4-2(g), all pleadings filed in the Family Part must include a completed Confidential Litigant Information Sheet in a form prescribed by the Administrative Director of the Courts.

Note: Source - R. (1969) 5:5-3(a). Adopted December 20, 1983, to be effective December 31, 1983; amended January 10, 1984, to be effective immediately; amended July 14, 1992 to be effective September 1, 1992; amended July 28, 2004 to be effective September 1, 2004; amended July 21, 2011 to be effective September 1, 2011; amended July 9, 2013 to be effective September 1, 2013.

Rule 5:5-4. Motions in Family Actions

(a) Motions.

(1) General. Motions in family actions shall be governed by R. 1:6-2(b) except that, in exercising its discretion as to the mode and scheduling of disposition of motions, the court shall ordinarily grant requests for oral argument on substantive and non-routine discovery motions and ordinarily deny requests for oral argument on calendar and routine discovery motions.

(2) Motion attachments for establishing alimony or child support. When a motion or cross-motion is filed to establish alimony or child support, the pleadings filed in support of, or in opposition to the motion, shall include a copy of a current case information statement.

(3) Motion attachments for enforcement or modification. When a motion is filed for enforcement or modification of a prior order or judgment, a copy of the order or judgment sought to be enforced, modified or terminated shall be appended to the pleading filed in support of the motion.

(4) Motion attachments for modification or termination of alimony or child support not based on retirement. When a motion or cross motion is filed for modification or termination of alimony or child support, other than an application based on retirement filed pursuant to N.J.S.A. 2A:34-23(j)(2) and (j)(3), the movant shall append copies of the movant's current case information statement and the movant's case information statement previously executed or filed in connection with the order, judgment or agreement sought to be modified. If the court concludes that the party seeking relief has demonstrated a prima facie showing of substantial change of circumstances or that there is other good cause, then the court shall order the opposing party to file a copy of a current case information statement.

(5) Motion attachments for modification or termination of alimony based on retirement. Upon application by the obligor to modify or terminate alimony based upon retirement pursuant to N.J.S.A. 2A:34-23(j)(2) and (j)(3), both the obligor's application to the court for modification or termination of alimony and the obligee's response to the application shall be accompanied by current case information statements as well as the case information statements previously executed or filed, or other relevant financial documents if there was no case information statement executed or filed, in connection with the order, judgment or agreement sought to be modified. In the event the previous case information statement cannot be obtained after diligent efforts or was never prepared, a certification shall be submitted detailing said diligent efforts or the non-existence of said documents.

(b) Page Limits. Unless the court otherwise permits for good cause shown and except for the certification required by R. 4:42-9(b) (affidavit of service), all certifications in support of a motion shall not exceed a total of twenty-five pages. This twenty-five page limit shall be allocated between the initial certification(s) and reply certification(s) as the movant deems appropriate. All certifications in opposition to a motion or in support of a cross-motion or both shall not exceed a total of twenty-five pages.

(c) Time for Service and Filing. A notice of motion shall be served and filed, together with supporting affidavits and briefs, when necessary, not later than 24 days before the time specified for the return date. For example, a motion must be served and filed on the Tuesday for a motion date falling on a Friday 24 days later. Any opposing affidavits, cross-motions or objections shall be served and filed not later than 15 days before the return date. For example, a response must be served and filed on a Thursday for a motion date falling on a Friday 15 days later. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not later than 8 days before the return date. For example, such papers would have to be served and filed on a Thursday for a motion date falling on the Friday of the following week. If service is made by mail, 3 days shall be added to the above time periods. Two copies of all motions, cross-motions, certifications, and briefs shall be served.

(d) Advance Notice. Every motion shall include the following language: "NOTICE TO LITIGANTS: IF YOU WANT TO RESPOND TO THIS MOTION YOU MUST DO SO IN WRITING. This written response shall be by affidavit or certification. (Affidavits and certifications are documents filed with the court. In either document the person signing it

swears to its truth and acknowledges that they are aware that they can be punished for not filing a true statement with the court. Affidavits are notarized and certifications are not.) If you would also like to submit your own separate requests in a motion to the judge you can do so by filing a cross-motion. Your response and/or cross-motion may ask for oral argument. That means you can ask to appear before the court to explain your position. However, you must submit a written response even if you request oral argument. Any papers you send to the court must be sent to the opposing side, either to the attorney if the opposing party is represented by one, or to the other party if they represent themselves. Two copies of all motions, cross-motions, certifications, and briefs shall be sent to the opposing side.

"The response and/or cross-motion must be submitted to the court by a certain date. All motions must be filed on the Tuesday 24 days before the return date. A response and/or cross motion must be filed fifteen days (Thursday) before the return date. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not later than eight days (Thursday) before the return date. No other response is permitted without permission of the court. If you mail in your papers you must add three days to the above time periods.

"Responses to motion papers sent to the court are to be sent to the following address: _____. Call the Family Division Manager's office (_____) if you have any questions on how to file a motion, cross-motion or any response papers. Please note that the Family Division Manager's office cannot give you legal advice."

(e) Tentative Decisions. In any Family Part motion scheduled for oral argument pursuant to this rule, the motion judge prior to the motion date may tentatively decide the matter on the basis of the motion papers, posting the tentative decision and making it available to the parties. After such tentative decision has been made, unless either party renews the request for oral argument, that request shall be deemed withdrawn and the tentative decision shall become final and shall be set forth in an appropriate order. If, however, either party renews the request for oral argument, the motion shall be argued as scheduled. This tentative motion decision process shall be subject to the general supervision of the Family Presiding Judge of the vicinage.

(f) Orders on Family Part Motions. Absent good cause to the contrary, a written order shall be entered at the conclusion of each motion hearing.

(g) Exhibits. Exhibits attached to certifications shall not be counted in determining compliance with the page limits contained in this Rule. Certified statements not previously filed with the court shall be included in page limit calculation. All exhibits shall be differentiated from the text of a certification or affidavit by the use of labeled dividers before each exhibit or some other means. Where labeled dividers are used, they shall extend beyond the 8- 1/2 inch by 11 inch size of the paper.

Note: Source-R. (1969) 4:79-11. Adopted December 20, 1983, to be effective December 31, 1983; amended November 2, 1987 to be effective, January 1, 1988; former rule amended and redesignated paragraph (a) and paragraph (b) adopted June 29, 1990 to be effective September 4, 1990; paragraph (b)

amended and paragraph (c) adopted June 28, 1996 effective as of September 1, 1996; captions of paragraphs (a) and (b) amended and paragraph (d) adopted July 10, 1998 to be effective September 1, 1998; new paragraph (b) added and former paragraphs (b), (c), and (d) redesignated as paragraphs (c), (d), and (e) January 21, 1999 to be effective April 5, 1999; paragraph (d) amended July 5, 2000 to be effective September 5, 2000; new paragraph (f) added July 12, 2002 to be effective September 3, 2002; paragraphs (c) and (d) amended, and new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; paragraphs (c) and (d) amended June 15, 2007 to be effective September 1, 2007; paragraphs (a), (b), (d) and (g) amended July 16, 2009 to be effective September 1, 2009; paragraph (a) amended July 27, 2015 to be effective September 1, 2015; paragraph (a) amended and redesignated as subparagraph (a)(1) with caption added, new subparagraphs (a)(2) through (a)(5) adopted, paragraph (b) amended July 29, 2019 to be effective September 1, 2019.

Rule 5:5-5. Participation in Early Settlement Programs

All vicinages shall establish an Early Settlement Program (ESP), in conjunction with the County Bar Associations, and the Presiding Judges, or designee, shall refer appropriate cases including post-judgment applications to the program based upon review of the pleadings and case information statements submitted by the parties. Parties to cases that have been so referred shall participate in the program as scheduled. The failure of a party to participate in the program or to provide a case information statement or such other required information may result in the assessment of counsel fees and/or dismissal of the non-cooperating party's pleadings. Not later than five days prior to the scheduled panel session, each party shall be required to provide a submission to the ESP coordinator in the county of venue, with a copy to the designated panelists, if known.

Note: Source-R. (1969) 4:79-4. Adopted December 20, 1983, to be effective December 31, 1983; amended January 10, 1984, to be effective April 1, 1984; amended November 1, 1985 to be effective January 2, 1986; amended November 5, 1986 to be effective January 1, 1987; amended July 28, 2004 to be effective September 1, 2004.

Rule 5:5-6. Participation in Mandatory Post-ESP Mediation or in a Mandatory PostESP Complementary Dispute Resolution Event

(a) Mandatory Post-ESP Events. Each vicinage shall establish a program for the post-Early Settlement Program ("ESP") mediation of the economic aspects of a divorce, dissolution of a civil union or termination of a domestic partnership, consistent with the procedures set forth in these Rules. In any matter in which a settlement is not achieved at the time of the ESP, an order for mediation or other post-ESP Complementary Dispute Resolution ("CDR") event shall be entered. The order shall provide that the litigants may select a mediator from the statewide-approved list of mediators or select an individual to conduct a post-ESP CDR event. Litigants shall be permitted to select another individual who will conduct a post-ESP mediation event, provided such selection is made within seven days.

(b) Mandatory Two Hour Minimum Participation. Unless good cause is shown why a particular matter should not be referred to this post-ESP program, litigants shall be required to participate in the program for no more than two hours, consisting of one hour of preparation time by the mediator or other individual conducting the alternate

CDR event and one hour of time for the mediation or other CDR event. As provided in R. 1:40-4(b), litigants selecting a mediator from the statewide approved list of mediators will not be charged a fee for the mandatory first two hours of mediation. This provision does not apply when the litigants select an individual not on the statewide approved list of mediators. Participation after the first two hours shall be voluntary.

(c) Allocation of Fees After Two Hour Minimum. If litigants consent to continue the mediation process, the Economic Mediation Referral Order will determine the distribution of costs for each party for the additional hours. If the litigants choose to participate in an alternate post-ESP CDR event, the fee shall be set by the individual conducting the session. The litigants shall share the cost equally unless otherwise determined by the court. The litigants are required to participate in at least one session of such alternate postESP CDR event.

Note: Adopted July 27, 2006 to be effective September 1, 2006; former text amended and allocated into paragraphs (a) and (b), captions to paragraphs (a) and (b) adopted, and new paragraph (c) caption and text adopted July 16, 2009 to be effective September 1, 2009; caption amended, paragraph (a) caption and text amended, and paragraphs (b) and (c) amended July 21, 2011 to be effective September 1, 2011; paragraph (b) amended July 27, 2015 to be effective September 1, 2015.

Rule 5:5-7. Case Management Conferences in Civil Family Actions

(a) Dissolution Priority and Complex Actions. In civil family actions assigned to the priority or complex track, an initial case management conference, which may be by telephone, shall be held within 30 days after the expiration of the time for the last permissible responsive pleading or as soon thereafter as is practicable considering, among other factors, the number of parties, if any, added or impleaded. Following the conference, the court shall enter an initial case management order fixing a schedule for initial discovery; requiring other parties to be joined, if necessary; narrowing the issues in dispute, if possible; and scheduling a second case management conference to be held after the close of the initial discovery period. The second case management order shall, among its other determinations, fix a firm trial date.

(b) Dissolution Standard and Expedited Cases. In civil family actions assigned to the standard or expedited track, a case management conference, which may be by telephone, shall be held within 30 days after the expiration of the time for the last permissible responsive pleading. The attorneys actually responsible for the prosecution and defense of the case shall participate in the case management conference and the parties shall be available in person or by telephone. Following the conference, the court shall enter a case management order fixing a discovery schedule and a firm trial date. Additional case management conferences may be held in the court's discretion and for good cause shown on its motion or a party's request.

(c) Non-Dissolution Actions. While non-dissolution actions are presumed to be summary and non-complex, at the first hearing following the filing of a non-dissolution application, the court, on oral application by a party or an attorney for a party, shall determine whether the case should be placed on a complex track. The court, in its

discretion, also may make such a determination without an application from the parties. The complex track shall be reserved for only exceptional cases that cannot be heard in a summary matter. The court may assign the case to the complex track based only on a specific finding that discovery, expert evaluations, extended trial time or another material complexity requires such an assignment. Applications for a complex track assignment made after the initial hearing may be considered upon presentation of exceptional circumstances. If the court deems a non-dissolution case to be appropriate for the complex track at the first hearing, an initial case management conference shall be held at that time, and a case management order shall be issued detailing the reasons that the case is deemed complex. The court shall enter an order fixing a schedule for discovery, narrowing the issues in dispute, appointing experts, ordering necessary reports from probation or third parties, scheduling mediation (where appropriate), fixing a trial date, scheduling a second case management conference to fix a trial date, or addressing any other relief the court may deem appropriate. At the first case management conference, the court shall address any pendente lite relief requested, identify and schedule any anticipated applications and/or schedule another hearing to address any requested relief. At the second case management conference, the court shall fix a trial date, address any stipulations between the parties, address anticipated applications, address the completion of discovery or expert or third party reports, narrow the issues, schedule mediation and fix the time for the filing of briefs and pre-marked documents.

Note: Adopted as R. 5:5-6 November 5, 1986 to be effective January 1, 1987; full text deleted and new paragraphs (a) and (b) adopted January 21, 1999 to be effective April 5, 1999; redesignated as R. 5:5-7 July 27, 2006 to be effective September 1, 2006; paragraphs (a) and (b) captions amended, and new paragraph (c) caption and text adopted July 27, 2015 to be effective September 1, 2015.

Rule 5:5-8. Previous File or Record

(a) Previous Action Within State. In every family action where it appears by a pleading that there has been a previous family action in this State between the parties, any party or the court shall request the clerk of the court in which it was instituted to send to the clerk of the county in which the pending action is to be tried the complete file in the previous action or a certified copy thereof. At the conclusion of the action such file shall be returned.

(b) Previous Action Outside State. If it appears that the previous action was in a foreign jurisdiction, the party whose pleading refers thereto, or the moving party if the action is uncontested, shall produce at trial so much of the record in said action as is necessary to enable the court to determine the effect, if any, of the previous action upon the issue before it.

Note: Source - R. (1969) 4:79-6(a) (b). Adopted as R. 5:5-6 December 20, 1983, to be effective December 31, 1983; redesignated as R. 5:5-7 November 5, 1986 to be effective January 1, 1987; redesignated as R. 5:5-8 July 27, 2006 to be effective September 1, 2006.

Rule 5:5-9. Procedures Concerning the Entry of Certain Final Judgments of Divorce, Dissolutions of Civil Unions, and Terminations of Domestic Partnerships

When a settlement is placed on the record and a judgment is entered orally, a contemporaneous written final judgment shall be entered either in the form set forth in Appendix XXV of these rules or in a form as consented to by the parties. If the final judgment that is entered is in the form set forth in Appendix XXV, the parties within ten days of such entry may submit to the court a proposed amended form of final judgment setting forth the terms of the settlement or specifically incorporating the parties' written property settlement agreement. The court in its discretion may relax the ten-day limit.

Note: Adopted July 27, 2006 to be effective September 1, 2006; caption and text amended July 21, 2011 to be effective September 1, 2011.

Rule 5:5-10. Default; Notice for Final Judgment

In those cases where equitable distribution, alimony, child support and other relief are sought and a default has been entered, the plaintiff shall file and serve on the defaulting party, in accordance with R. 1:5-2, a Notice of Proposed Final Judgment ("Notice"), not less than 20 days prior to the hearing date. The Notice shall include the proposed trial date, a statement of the value of each asset and the amount of each debt sought to be distributed and a proposal for distribution, a statement as to whether plaintiff is seeking alimony and/or child support and, if so, in what amount, and a statement as to all other relief sought, including a proposed parenting time schedule where applicable. Plaintiff shall annex to the Notice a completed and filed Case Information Statement in the form set forth in Appendix V of these Rules. When a written property settlement agreement has been executed, plaintiff shall not be obligated to file such a Notice. When the summons and complaint have been served on the defendant by substituted service pursuant to R. 4:4-4, a copy of the Notice shall be filed and served on the defendant in the same manner as the summons and complaint or in any other manner permitted by the court, at least twenty (20) days prior to the date set for hearing. The Notice shall state that such Notice can be examined by the defendant during normal business hours at the Family Division Manager's office in the county in which the Notice was filed. The Notice shall provide the address of the county courthouse where the Notice has been filed. Defaults shall be entered in accordance with R. 4:43-1, except that a default judgment in a Family Part matter may be entered without separate notice of motion as set forth in R. 4:43-2.

Note: Former Rule 5:5-2(e), adopted as Rule 5:5-10 June 15, 2007 to be effective September 1, 2007; caption and text amended July 16, 2009 to be effective September 1, 2009.