

New Jersey Probate Part and Surrogate's Court Statistical Reference Guide



**Prepared by the Civil Practice Division,
Administrative Office of the Courts**

Approved by the New Jersey Judicial Council

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Foreword

This Probate Part and Surrogate's Court Statistical Reference Guide has been developed to help Surrogates' staff perform their monthly reporting duties and to improve the accuracy and comparability of data reported. This material and the attached reporting form are to be used to report the monthly activity of Surrogates' Courts and the Probate Part of the Superior Court's Chancery Division.

**New Jersey Administrative Office of the Courts
Probate Part and Surrogate's Court Statistical Reference Guide**

INTRODUCTION

Statistics provide essential information about each trial court Part's caseload, specifically, the number and nature of cases that are filed and disposed in each Part. Case statistics may also measure the timeliness of case dispositions. Statistics provide the Supreme Court with a snapshot of each Part's past and current activities and a sense of future trends, and assist the Court in overseeing the operation of New Jersey's courts. Analyses of caseload statistics help determine court resource needs, *e.g.*, judges, support staff, equipment and facilities, providing empirical data in support of resource requests within the Judiciary as well as to the Executive and Legislative Branches and county administrations. Finally, caseload statistics bear on public perceptions of the Judiciary, insofar as such statistics are published and disseminated.¹

All Parts of the New Jersey Superior Court collect and maintain caseload data. The Reference Guide is intended to provide Surrogates' and Probate Part staff with a comprehensive approach to collecting accurate and timely probate statistics.²

Structure of New Jersey Probate Courts

In New Jersey, probate matters are handled by two courts, namely, Surrogates' Courts and the Superior Court, Chancery Division, Probate Part.

The majority of probate matters are handled by Surrogates' Courts. Each of New Jersey's twenty-one counties has an elected Surrogate. Probate matters are handled *ex parte* in the Surrogates' Courts, which are not courts of record. Surrogate's Court jurisdiction is restricted to specific uncontested applications, *i.e.*, admitting original Wills to probate, appointing personal representatives to administer decedents' estates, appointing administrators *ad prosequendum* and appointing minors' guardians. Surrogates' Courts handle only uncontested matters, that is, matters where no objection, dispute or controversy arises. For example, the probate of a Last Will and Testament may be handled in the Surrogate's Court only when the original Will is lodged (presented) for filing, no doubt or difficulty arises on the face of the Will, and no caveat, dispute or opposition is present. Otherwise, probate must be handled in the Probate Part.

The Superior Court, Chancery Division, Probate Part is a court of general jurisdiction. It handles all contested probate matters and certain uncontested matters with its statutory authority over any dispute arising with respect to an estate (*e.g.*, decedent, trust, guardianship, conservatorship, missing person, *et cetera*). The Probate Part handles matters in open court

¹ See, for example, State Court Caseload Statistics prepared by the National Center for State Courts.

² The National Probate Court Standards, Standard 2.4.4 Collection of Caseload Information, states: "(a) [t]he probate court should collect and review caseload statistics including the volume, nature, and disposition of proceedings."

on notice to all interested parties. It has general oversight of Surrogate's Court proceedings.

Probate Part oversight of estates is only as to matters that are brought to the court for its determination or resolution by an interested party. Some estates are administered with no court supervision whatever. The estate is opened as an uncontested application in the Surrogate's Court and is closed by filing release and refunding bonds with the Surrogate. Other estates may have multiple contested issues adjudicated by a Probate Part judge during the life of the estate, with the personal representative performing all other administrative business with no need for court direction or involvement.

Probate Part Caseload Monitoring and Management

The information required for effective caseload management includes: (1) counts of new case filings, case dispositions and pending cases; (2) the method by which the count is taken (*i.e.*, the unit of count that constitutes a case and the point at which the count is taken); and (3) the composition of the counted categories (the specific case types that are included within reporting categories). Case filing and disposition data represent key measures of the Probate Part workload.

The Quantitative Research Unit compiles caseload management information for the Superior Court, Tax Court and Municipal Courts and regularly provides the Supreme Court and Administrative Office of the Courts with caseload statistics, including reports measuring inventory, case age, compliance with disposition time guidelines and court activity. As county officials (as well as Judicial officers), Surrogates may be required to report Surrogate's Court and probate data to county freeholder boards and county executives to support staffing and equipment requests.

Publication of Probate Part and Surrogate Court Statistical Data

Probate Part and Surrogate's Court statistical data are manually reported each month on a reporting form adopted by the Administrative Office of the Courts, following review by the Committee of Probate Part Judges and the Judiciary - Surrogates Liaison Committee.

The data collected report the number of cases pending at the start of a reporting period, the number of new probate cases filed during the period, the number of cases disposed during the period, and the number of cases pending at the end of the period. The statistical reports are organized according to the major case categories (probate, guardianship/conservatorship, accounting, estate administration matters and other probate matters). Surrogate's Court reporting identifies proceedings in ten categories, which include applications within the jurisdiction of the Surrogate's Court and functions associated with the Surrogate's role as Deputy Clerk of the Superior Court Clerk, Chancery Division, Probate Part.

The Administrative Office of the Courts' Quantitative Research Unit periodically publishes compilations of the Monthly Probate Reports statistics. When requested, data compilations are made available to state and national organizations.

GENERAL PROBATE PART AND SURROGATE'S COURT REPORTING INSTRUCTIONS

Reporting Form

The Monthly Probate Report (Revised 2008) shall be the official form for the use by Surrogates and their staff for the monthly submission of statistical data relating to probate cases and applications.

Responsibility for Report Submission

Surrogates, as Clerks of Surrogates' Courts and Deputy Clerks of the Superior Court, Chancery Division, Probate Part, shall file monthly reports with the AOC using the Monthly Probate Report (Revised 2008). The original copy of the report, signed off on by the Surrogate and the vicinage Assignment Judge or Trial Court Administrator, must be submitted for the previous month to the Civil Practice Division pursuant to a timetable set forth by the Civil Practice Division at the beginning of the court year. The report should be addressed to: Administrative Office of the Courts, Civil Practice Division, P.O. Box 981, Trenton, NJ 08625-0981. Facsimile transmission number: (609)777-0844.

Probate Monthly Reporting Instructions

Probate statistics must represent the most complete and reliable information available at the time of compilation to ensure that the data supporting policy and resource determinations are as accurate as possible.

Counting Probate Cases

Filing means the commencement of legal proceedings with the Probate Part or Surrogate's Court by submitting an application or verified complaint, with the appropriate filing fee, to the court.

Cases are counted on filing, transfer, reactivation or reopening. A Probate Part case is counted as a new filing (no matter how many counts for relief are involved) when a verified complaint is received and the fee is paid, or when a case is transferred from another Part or vicinage, or when a case is reactivated or reopened. **Not counted** as new Probate Part cases are verified complaints for partial or final SITF withdrawals. SITF withdrawal complaints are reported on Line 5b of the Monthly Probate Report (Revised 2008).

Pursuant to R. 4:83-1, all Probate Part actions are summary actions affording complete relief on the return date. A summary action is concluded with entry of a judgment or other manner of disposition, such as a stipulation of dismissal or a settlement placed on the record. Accordingly, a subsequently filed verified complaint seeking new relief, notwithstanding that the new summary action relates to an estate that has previously been adjudicated, is counted as a new case and given a new docket number. A single estate may have multiple verified complaints associated with its administration before it is closed; each verified complaint is counted as a new filing.

Do not report the filing of amended or supplemental pleadings or motions as new cases.

Until the case is disposed, all amended or supplemental pleadings, motions and other proceedings in the action should be handled under the initially assigned docket number and counted as a single case.

Cases filed during the reporting period may also be disposed in the same reporting period. These cases are counted as new filings in Section 2 of the Monthly Probate Report (Revised 2008), and as dispositions under Section 3.

Surrogate's Court applications are counted on the entry of judgment or the issuance of the requested relief. Thus, pending applications for probate or Letters of Administration are not counted until the judgment is entered. An application for an affidavit of surviving spouse is counted when the affidavit is issued.

Multiple Counts and Litigants

A given Probate Part complaint may contain multiple counts in which different types of relief are sought against multiple parties in interest. Each Probate Part case is reported as a single filing, no matter how many litigants are involved, how many causes of action are alleged or how many counts are set forth. The most important count in any given case establishes the category under which the case is reported. For example, a multi-count complaint seeking to remove an executor, compel a judicial accounting, surcharge the executor and appoint an administrator C.T.A. can be counted as either a new accounting action or a new personal representative action, but not as two new actions. On the other hand, if several independent summary actions are filed seeking essentially the same relief as in the multi-count complaint, each would be counted as a new action.

Remanded Probate Part Cases

Remand occurs when a case that resulted in a final judgment and that was previously reported as disposed, is sent back to the Probate Part by the Supreme Court or Appellate Division. If the remand orders a new trial or hearing, it is counted as a new case. Do not count as a new case remands that merely modify or direct the court to dismiss a judgment.

Reactivated Cases

Only cases on the Military List pursuant to R. 1:13-6 may be inactivated. If and when such cases are reactivated, that is, restored to the active inventory of cases on the Probate Part docket, they are given new docket numbers and counted as new cases for the month they are reactivated.

Note: Because Probate Part cases are tracked and reported manually, when they are reactivated such cases are aged from the date of the complaint; the time that the case was in inactive status is not subtracted from the case age. This is different from reactivated Civil Part cases, where the automated system subtracts the period of inactivity from the case's age.

Reopened Cases

Reopening occurs when a case that has previously been disposed by means other than reactivation returns to the Probate Part docket to be litigated or re-litigated. Reopening is the result when a *R. 4:49-1* motion for a new trial or a *R. 4:50* motion for relief from judgment is granted, or when a default or dismissal is vacated. Reopened cases are not given new docket numbers, they are reopened under their original docket numbers but are counted as added cases in the month they are reopened.

Note: A case should only be reopened under the original docket number in the same summary action, under the same verified complaint. If, in a single estate, for example, separate and successive summary actions are begun by separate verified complaints, each new action should be given a new docket number and counted as a new case, **not a reopened case**.

Note: Because Probate Part cases are tracked and reported manually, when they are reopened such cases are aged from the date of the complaint; the time that the case was closed is not subtracted from the case's age.

Severed Cases

Severance occurs when the court orders one case to be split into two or more cases. When a case is severed, the portion severed will receive a new docket number and will be counted as a new case.

Proceedings and Pleadings that are Not Counted as New Probate Part Cases

The following should not be counted as new Probate Part cases, but rather are filed and handled as part of an already established case:

- Post-judgment applications or documents, such as motions to enforce litigant's rights.
- Annual guardian reports.
- Petitions for the appointment of a court visitor or a guardian *ad litem*.
- Pretrial and interlocutory trial motions. Incidental motions or petitions are reported on line 5a of the Monthly Probate Report (Revised 2008). Examples include but are not limited to motions to dismiss, for a continuance, for change of venue, for the production of documents, for appointment of master, for substitution or withdrawal of counsel, to recuse the judge, for substituted service, to consolidate cases.
- Cross-claims, third-party complaints or counterclaims. These are generally not permitted in summary actions without leave of the court.
- Applications for Temporary Restraining Orders or Preliminary Injunctions. These forms of relief are interlocutory and are associated with a pending case.

Dispositions

Report Probate Part cases as disposed when all relief sought by the plaintiff or other litigants has been addressed, all disputes have been resolved and the final judgment or order is entered.

Report only one disposition per docket number.

Do not report as a disposition an order entered on a motion to modify a judgment or order.

Disposition Report Timing

The entry of the disposition onto the court's docket, rather than the decision date, controls reporting. Thus, if a hearing on January 30 results in entry of an order of dismissal, but the dismissal/case termination order is not entered onto the docket until February 1, the disposition is counted in the February report.

Consolidated Cases

Consolidation occurs when two or more cases are merged into one case. Each case (docket number) consolidated into an existing case is counted as a disposition and should be reported on Line 3f as "Other Disposed".

Do not report as a disposition cases that are merely consolidated for purposes of hearing or trial.

Inactive Cases

Only cases on the Military List pursuant to R. 1:13-6 may be inactivated. Upon inactivation, such cases are reported on Line 3f as "Other Disposed."

Bankruptcy

Cases are not inactivated because a party is in bankruptcy. If the case is dismissed without prejudice, subject to being reopened, report as a disposition. Upon reopening, report as a new case.

Disposition Categories

The Monthly Probate Report (Revised 2008) identifies six disposition categories:

a. *Trial.* Enter cases disposed by a bench trial (judge without a jury) that have been tried to conclusion, that is, where the judge renders a final decision regarding all issues in the case, resulting in the entry of a judgment or order onto the docket. Trials involve testing or examining facts in dispute through testimony, cross-examination and submission of other evidentiary proofs, for determination of issues of law and fact. Distinguish trial dispositions

from hearings/arguments (with or without limited testimony) or cases settled or voluntarily withdrawn before judgment is rendered.

b. *Summary Disposition after Hearing/ Argument.* Enter cases concluded after hearing or argument before the judge, where minimal or no testimony is taken. Since, by Court Rule, probate actions are summary actions, the majority of Probate Part cases disposed by judges from the bench will fall into this category. For example, a declaration of death action, which requires the court to take testimony (usually limited testimony without any opposition), is reported as a summary disposition, unless the death is, in fact, contested and a trial is required. In addition, default judgments (a disposition after the parties-in-interest fail to contest or oppose a plaintiff's allegations/claims for relief) entered after completion of a proof hearing or upon reliance on the *prima facie* facts set, are out in the verified complaint, are included in this category.

c. *Settlement.* Enter cases concluded by settlement of parties with or without the aid of the court. This category includes case settlements placed on the record or submitted to the court for its approval. It includes summary actions filed with a consent order rather than an order to show cause (*e.g.*, consent judgment signed by all intestate heirs to admit a copy of the decedent's will to probate). It does not include cases closed by the filing of a stipulation of dismissal.

d. *Rule 1:13-7 Dismissal.* *Rule 1:13-7* dismissals occur when a case is terminated due to lack of prosecution (litigant inactivity) and an order of dismissal on the court's motion is filed. Do not use this category for orders of dismissal on motion of a party or for voluntary dismissals.

e. *Complementary Dispute Resolution.* Enter cases resolved by mediation or arbitration; do not include settlements discussed in paragraph c above.

f. *Other.* This category encompasses any dispositions not described above, including cases disposed by (1) dismissal, other than for lack of prosecution under *R.1:13-7* (the matter is terminated by a judgment or order of the court dismissing the case); (2) voluntary dismissal (may occur before or after a hearing, pursuant to a stipulation or agreement of the litigants with or without the judge's involvement); (3) change of venue/jurisdiction (the case is transferred from the court of filing to another court or county for all subsequent adjudication and/or proceedings, upon motion of a party or upon the court's own initiative); (4) case consolidated into a primary case; and (5) cases placed on the inactive military list, pursuant to *R. 1:13-6*.

Multiple Dispositions.

In some instances, a Probate Part case has issues resolved in different ways, which may result in different dispositions among litigants. In Probate Part cases with multiple litigants, for example, some claims may be dismissed as to some parties while others are resolved through a trial. When this occurs, a single disposition for the case is to be recorded. Typically, it is the disposition that finally closes the case on the court's docket. Thus, if several parties agree to settle and one or

more parties refuse settlement and press for a hearing or trial, then the case disposition will be summary disposition after hearing or trial.

Probate Part and Surrogate's Court References

Commencement of Proceeding. A probate proceeding is commenced by filing an application in the Surrogate's Court or a verified complaint in the Probate Part. Rarely is a Probate Part matter opened with the filing of a petition or motion, although this may occur.

Application means a pleading filed with the Surrogate's Court whose contents conform to the requirements of *Rule* 4:80-1. An Application is disposed when an uncontested matter in the Surrogate's Court is concluded; that is with the entry of a judgment appointing a decedent's estate's personal representative, minor's guardian or an administrator *ad prosequendum*.

Verified Complaint means a written complaint whose contents conform to the Rules of Court and is verified pursuant *R.* 4:83-5. A verified complaint in support of a summary action should make out a *prima facie* case to support commencement of the action and issuance of an order to show cause, since if judgment by default is requested on the return date of the OSC, the complaint must establish all the necessary proofs to support entry of judgment.

Motion means an application for an order for specific relief. Infrequently, a motion is the first pleading in an action and a first pleading fee is paid, in which case, it is given a docket number and counted as a new case. Most commonly, however, motions are made in the context of an already existing case and are not counted as new filings.

Guardianship refers to matters relating to determination of the status of alleged incapacitated persons or to the well-being and/or estate of persons previously adjudicated to be incapacitated. This category also includes actions relating to the maintenance of wards and their property interests; control and restoration of wards' rights; appointment and removal of guardians; and appointment of guardians for individuals with developmental disabilities. Minors are under a statutory disability and since parents are natural guardians, not legal guardians, the establishment of a legal guardianship in certain circumstances may be required.

INSTRUCTIONS FOR COMPLETING THE MONTHLY REPORT (REVISED 2008) OF PROBATE PART AND SURROGATE'S COURT CASES

The Probate Part section is designed to collect information on pending cases at the beginning of the month, cases filed during the month, cases disposed during the month and cases pending at the end of the month. The Probate Part section also reports other non-case probate matters, such as SITF withdrawal applications, and case aging data. The Surrogate's Court section is designed to collect information on applications granted relative to probate of a Last Will and Testament, intestate administration, guardianship of a minor, affidavit in lieu of administration for a small estate, administration *ad prosequendum*, trustee qualification and other Surrogate's Court activities. In addition, auditing of accountings, SITF withdrawal orders and SITF checks issued must be reported.

Complete all sections of the report. If a category has had no activity in the preceding month, report as zero; **do not leave blanks**.

Line-by-Line Explanation

Complete the appropriate identifying information: the county, the month and year for the data being reported, and the name and telephone number of the person preparing the report.

CATEGORY 1. CASES PENDING AT BEGINNING OF MONTH

Report the number of active pending Superior Court Probate Part cases as of the beginning of the month. This should be the same number as the total reported in Category 4 on the previous month's report.

Pending Case Adjustment. Check if the pending number is identical to or different from the category 4 total reported for the previous month. If the number of cases pending at the first of the month does not equal the number of cases pending at the end of the previous month, you must enter a pending case adjustment. A pending case adjustment is the difference between the number of cases pending at the end of the previous month and the number of cases pending at the beginning of the current month. You must attach an explanation for each adjustment.

CATEGORY 2. PROBATE PART CASES FILED DURING MONTH

The Monthly Probate Report (Revised 2008) categorizes all probate actions into one of five classifications:

- a. Superior Court Probate/ Personal Representative Appointment
- b. Accounting/ Approval
- c. Incapacitated Guardianship / Conservator Matters
- d. Estate Administration Matters
- e. Other Probate Part Cases

Report the total number of original verified complaints filed (*i.e.*, new causes of action initiated with correct filing fee paid) plus all cases reopened, reactivated or transferred into the county during the month covered by the report, by category.

LINE 2a. Report the total number of *Superior Court Probate/ Personal Representative Appointments*. This category includes all verified complaints to admit a Will to probate; set aside a Surrogate's probate judgment; contest a Will; and to produce a Will. It also includes R. 4:82 actions and Probate Part intestate applications for administration, substitute administration, administration C.T.A. and the like. A non-exclusive list of summary actions that this category encompasses includes:

1. Action to Set Aside Surrogate's Judgment of Probate
2. Action to Probate Spoiled Wills with interlineations, cross-outs or erasures
3. Action to Probate a Copy of the Original Last Will and Testament
4. Action to Compel Production of Purported Will
5. Action to Admit a Will to Probate in Solemn Form
6. Action to Admit a Will to Probate and Appoint an Administrator C.T.A.
7. Action to Revoke or Modify Surrogate's Court Judgment
8. Action to Revoke Grant of Administration and for Admission of After- Discovered Will to Probate
9. Action to Revoke Probate of Will and for Admission of Later Will to Probate
10. Action to Appoint General Administrator of Decedent's Estate
11. Action to Appoint Temporary Administrator of Decedent's Estate
12. Action to Submit an *Inter Vivos* Trust subject to the jurisdiction of the Superior Court
13. Action for Administration of Nonresident's Estate
14. Action for Appointment of Ancillary Administrator

LINE 2b. Report the total number of *Accountings/ Approvals*. This category includes all Probate Part actions filed by a personal representative, trustee, conservator, guardian or other fiduciary seeking that the accounting be brought on for approval by a Superior Court judge. A non-exclusive list of summary actions that this category encompasses includes:

15. Action for Approval of Personal Representative's or Fiduciary's Accounting

Note: This category does not include annual reports filed by guardians pursuant to a judgment of incapacity, nor does it include accountings filed but not brought on for approval. Thus, if a prior action ordered a fiduciary to file an accounting but did not seek judicial approval, the filing of the accounting is not counted as a new matter. On the other hand, if filing and approval were ordered and the fiduciary files a verified complaint with the accounting seeking the court's approval of the accounting and his or her discharge, it is counted as a new case.

LINE 2c. Report the total number of *Incapacitated Guardianship / Conservator Matters*. This category includes all Probate Part actions seeking to appoint a guardian of an incapacitated person or conservator for a person with capacity. It also includes Adult Protective Services (APS) actions seeking relief under the Adult Protective Services Act and actions seeking protective orders pursuant to *N.J.S.A. 3B:12-1 to 4*. A non-exclusive list of summary actions that this category encompasses includes:

16. Action to Declare a Person Incapacitated and Appoint a Guardian
17. Action to Transfer Guardianship Established in Another State
18. Action to Establish Conservatorship/ Appoint a Conservator
19. Action for a Protective Order under *N.J.S.A. 3B:12-1 to 4*
20. Action to Appoint Guardian of a Minor

21. Action to Appoint Guardian for an Individual with Developmental Disability
22. Action by APS on behalf of abused, neglected or exploited elderly person
23. Action for full or partial restoration of incapacitated person's rights

Note: Special Medical Guardianship is a General Equity application and is not a Probate Part proceeding. R. 4:86-12. Do not count as a Probate Part action.

Note: Do not count *pendente lite* Temporary Guardianships. Such appointments are requested as a separate count in a pending action to declare a person incapacitated and appoint a guardian.

LINE 2d. Report the total number of *Estate Administration Matters*. This category includes all Probate Part actions dealing with an estate's administration, such as, removal or discharge of a personal representative or fiduciary; appointment of a substitute fiduciary; declaration of an estate's insolvency; application for construction of a Last Will and Testament; action for discovery of assets or to compel filing of an inventory. It also includes actions for administration of an estate involving a guardianship or conservatorship. A non-exclusive list of summary actions that this category encompasses includes:

24. Action to Declare Estate Insolvent
25. Action to Compel Personal Representative or Guardian to Account
26. Action to Compel Testamentary or *Inter Vivos* Trustee to Account
27. Action to Determine Rights with Respect to Administration of Trust or Estate
28. Action for Construction of Will
29. Action by Testamentary Personal Representative or Trustee for Advice and Instructions
30. Action by *Inter Vivos* Trustee for Advice
31. Action to Sell, Mortgage or Lease Minor's or Incapacitated Person's Realty
32. Action involving the administration of an incapacitated person's, conservatee's, minor's or developmentally disabled person's estate
33. Action to Sell Real Estate to Pay Debts or Devise
34. Action for Confirmation of Sale of Real Property
35. Action by Fiduciary for Instructions
36. Action for Spouse's Elective Share
37. Action to Compel Distribution
38. Action for the Appointment of a Substitute Fiduciary (*e.g.*, substitute *inter vivos* or testamentary trustee, guardian or conservator)
39. Action by a Fiduciary for His/Her/Its Discharge
40. Action for the Removal of a Fiduciary
41. Action to Surcharge Fiduciary for Misconduct/ Mis-administration
42. Action for Instructions to Compromise, Release or Settle Claims
43. Action to Impose Constructive or Resulting Trust
44. Action for Trust Construction
45. Rule 4:88 Petition for Commissions Before Settlement

LINE 2e. Report the total number of *Other Probate Part Cases*. This category includes all other Probate Part actions not enumerated above, such as, declaration of death; establishment of a spouse's elective share; or assignment for the benefit of creditors. A non-exclusive list of summary actions that this category encompasses includes:

46. Action for Declaration of Death
47. Action to Establish Omitted Spouse or Child's Rights
48. Action for Determination of Heirship
49. Action for Administration of the Estate of Absent Person and Appointment of Trustee to Administer
50. Action to Designate a Custodian when Alternate is Not Named (Uniform Transfer to Minor's Act)
51. Assignment for the Benefit of Creditors
52. Action to Change Surety Bond Penal Sum
53. Action to Release Surety
54. Action to Enforce Fiduciary's Bond
55. Action for Land Sales by Foreign Personal Representative
56. Action for Letters of Administration Durante Minoritate
57. Action to Reform a Trust

Category 2 Totals. Report the sum of Lines 2a through 2e in the far right column as Total Probate Cases Filed During the Month.

CATEGORY 3. PROBATE PART CASES DISPOSED OF DURING MONTH BY TYPE OF DISPOSITION

Line 3a. Report the total number of trial dispositions. See further description in Disposition Categories, *supra*.

Line 3b. Report the total number of summary dispositions after hearing/argument. See further description in Disposition Categories, *supra*.

Line 3c. Report the total number of settlement dispositions. See further description in Disposition Categories, *supra*.

Line 3d. Report the total number of *Rule 1:13-7* Dismissal dispositions. See further description in Disposition Categories, *supra*.

Line 3e. Report the total number of Complementary Dispute Resolution dispositions. See further description in Disposition Categories, *supra*.

Line 3f. Report the total number of other dispositions. See further description in Disposition Categories, *supra*.

Category 3 Totals. Report the sum of Lines 3a through 3f in the far right column as Total Probate Cases Disposed During the Month.

**CATEGORY 4. PENDING PROBATE PART CASES --AGING HISTORY
AT END OF MONTH**

Report the length of time cases open during the month have been on the docket. Total Probate Part Cases Pending consists of cases pending (a) under 6 months; (b) 6 to 12 months; (c) 12 to 18 months; and (d) over 18 months. Calculate this time span from the filed date of the verified complaint through the month of the report to determine the age of Probate Part cases.

Line 4a. Report the total number of Probate Part cases less than 6 months old.

Line 4b. Report the total number of Probate Part cases 6 months to 12 months old.

Line 4c. Report the total number of Probate Part cases 12 months to 18 months old.

Line 4d. Report the total number of Probate Part cases over 18 months old.

Category 4 Totals. Report the sum of Lines 4a through 4d in the far right column as Total Probate Part Cases Pending.

Note: Total Probate Part Cases Pending should agree with the computation: Category 1 (Beginning Pending) plus Category 2 (Added/Filed) minus Category 3 (Dispositions) equals Category 4 (Total Pending).

Note: The total number of cases reported in this category should be reported on the subsequent month's report as cases pending at the beginning of the month.

CATEGORY 5 OTHER PROBATE PART MATTERS

LINE 5a. Motions and Petitions. Count all Probate Part motions and petitions disposed during the report month. If a motion or petition is filed in one month but disposed in a subsequent month, count it in the month that the motion or petition is disposed.

LINE 5b. SITF Withdrawal Applications. Enter all Probate Part SITF verified complaints/applications presented to a Superior Court judge for a determination (includes applications reviewed and granted or denied on papers in chambers).

LINE 5c. SITF Hearings. Enter all Probate Part SITF hearings conducted by the court during the month. Do not count guardian requests for a hearing after a denial if the guardian fails to appear at the hearing.

Category 5 Totals. Report the sum of Lines 5a through 5c in the far right column as Total

Other Probate Part Matters.

CATEGORY 6 SURROGATE'S COURT MATTERS

LINE 6a. Wills/Letters Testamentary. Report all Surrogate's Court activity related to testamentary decedents' estates. Applications are counted when the judgment is entered. Enter the number of testate estates probate judgments entered during the month. A non-exclusive list of applications that this category encompasses includes:

58. Application for Probate of Last Will and Testament and Granting Letters Testamentary
59. Application for Successor Executor Appointment
60. Application for Probate and Administrator C.T.A. Appointment
61. Application for Administrator C.T.A. Appointment
62. Application for Probate of a Nonresident's Last Will and Testament and Letters Testamentary

LINE 6b. General Administrations. Report all Surrogate's Court activity related to intestate estates. Applications are counted when the judgment is entered. Count the number of intestate estates judgments appointing an administrator entered during the month. A non-exclusive list of applications that this category encompasses includes:

63. Application for General Administrator Letters
64. Application for Substitute General Administrator Letters
65. Application by Foreign Administrator for Ancillary Administration

LINE 6c. Affidavits In Lieu of Administration. Report all Surrogate's Court activity related to affidavits in lieu of administration for small decedents' estates. Applications are counted when the affidavit is issued. Count the number of affidavits of surviving spouse (\$20,000) and next of kin (\$10,000) issued during the month. A non-exclusive list of applications that this category encompasses includes:

66. Affidavit of Surviving Spouse in Lieu of Administration
67. Affidavit of Next of Kin in Lieu of Administration

LINE 6d. Guardianships of Minors. Report all Surrogate's Court activity related to minor guardianships. Applications are counted when the judgment is entered. Count the number of minor guardianship judgments entered during the month. A non-exclusive list of applications that this category encompasses includes:

68. Application for Testamentary Guardianship Letters
69. Application by Parent/ Next of Kin for Guardianship of a Minor's Person
70. Application by Parent/ Next of Kin for Guardianship of a Minor's Estate

Note: If the application is for both person and estate, count as one application.

LINE 6e. Administration *Ad Prosequendum*. Report all Surrogate's Court activity related to wrongful death *ad prosequendum* appointments. Applications are counted when the judgment is entered. Count the number of *ad prosequendum* judgments entered during the month. A non-exclusive list of applications that this category encompasses includes:

- 71. Application for Letters of Administration *Ad Prosequendum*

LINE 6f. Testamentary Trustee/Successor Trustee Qualification. Report all Surrogate's Court activity related to qualifying testamentary and successor trustees. Applications are counted when the Letters are issued. Enter the number of testamentary trustee or successor testamentary trustee Letters issued during the month. A non-exclusive list of applications that this category encompasses includes:

- 72. Testamentary Trustee Acceptance and Letters
- 73. Successor Testamentary Trustee Acceptance and Letters

Note: Trustee qualifications and Letters issued pursuant to a Superior Court judgment should not be counted as a Surrogate's Court activity.

LINE 6g. Other. Report all Surrogate's Court activities not otherwise reported. This includes commissions, filed proofs of claims, filed release and refunding bonds and disclaimers, and all other matters not listed above. Count each document type filed. **Do not count the number of pages filed.** A non-exclusive list of documents or activities that this category encompasses includes:

- 74. Certificates of Doubt or Difficulty
- 75. Caveats Filed Opposing Testate or Intestate Applications
- 76. Commission Out of Surrogate's Court
- 77. Surrogate Certification of Papers on File in the Surrogate's Court
- 78. Surrogate Certification of Papers on File in the Superior Court
- 79. Exemplification of probate records
- 80. Receipt, Release and Refunding Bond filed
- 81. *In Loco Parentis* Receipts (\$5,000)

Category 6 Totals. Report the sum of Lines 6a through 6g in the far right column as Total Surrogate's Court Matters.

CATEGORY 7. OTHER SURROGATE'S ACTIVITIES

LINE 7a. Accounting Audits for Probate Part. Report all Surrogate's Court activity related to audits for accountings filed and brought on for judicial approval in the Probate Part. Enter all Probate Part audits completed and stated (presented) to the Superior Court for approval during the month that the accounting is disposed (not the month that the audit is completed).

LINE 7b. SITF Withdrawal Orders. Report Surrogate's Court activity related to Surrogates'

Intermingled Trust Fund (SITF) withdrawal orders granted or denied. Count only SITF withdrawal orders from the Superior Court or entered by the Surrogate that were received and entered onto the docket during the month.

Note: Count each order as one, regardless of the number of payees included in the order.

LINE 7c. SITF Checks Issued. Report all Surrogate's Court activity related to the number of SITF checks issued during the month. Include final disbursements to minors attaining majority; partial withdrawals to third parties or guardians; and Surrogate SITF fee disbursement checks. Enter number of all SITF checks issued during the month pursuant to Superior Court and Surrogate orders; include standing withdrawal orders.

Category 7 Totals. Report the sum of Lines 7a through 7c in the far right column as Total Other Surrogate Activities.

Execution

Provide the name and telephone number of the person preparing the report. The Surrogate (or his or her designee) and the AJ, TCA or ATCA must sign off on the form.

Submission

Send the report to the AOC, Civil Practice Division, P.O. Box 981, Trenton, NJ 08625-0981 (or fax to (609) 777-0844) by the monthly due date.

Appendices

Appendix A. Monthly Probate Report (Revised 2008)

Appendix B. Monthly Probate Report (1991 to 2007)

Appendix C. AOC Caseflow Metrics

Appendix A - Monthly Report (Revised 2008)

MONTHLY REPORT OF PROBATE PART AND SURROGATE COURT CASES

_____ County Month of _____, 20 ____

TO BE FORWARDED BY THE FOURTH DAY OF THE FOLLOWING MONTH TO:

CIVIL PRACTICE DIVISION
ADMINISTRATIVE OFFICE OF THE COURTS
P. O. BOX 981, TRENTON, NEW JERSEY 08625
FAX 609-777-0844

I. SUPERIOR COURT, CHANCERY DIVISION, PROBATE PART

Cases pending at beginning of month
Check one - **IDENTICAL** to _____ **DIFFERENT** from _____ last month.
If different, I am reporting a **RECOUNT** of _____ cases. Explain on a separate sheet.

2. PROBATE PART CASES FILED DURING MONTH

- a. Superior Court Probate/ Personal Representative Appointments a _____
- b. Accountings/ Approvals b _____
- c. Incapacitated Guardianship / Conservator Matters c _____
- d. Estate Administration Matters d _____
- e. Other Probate Part Cases e _____

TOTAL PROBATE PART CASES FILED _____

3. CASES DISPOSED OF DURING MONTH BY TYPE OF DISPOSITION

- a. Trial a _____
- b. Summary Disposition after Hearing/ Argument b _____
- c. Settlement c _____
- d. Rule 1:13 Dismissal d _____
- e. Complementary Dispute Resolution e _____
- f. Other Disposed f _____

TOTAL PROBATE PART CASES DISPOSED _____

4. PENDING PROBATE PART CASES - - AGING HISTORY AT END OF MONTH

- a. Under 6 months old a _____
- b. 6 to 12 months old b _____
- c. 12 to 18 months c _____
- d. Over 18 months d _____

TOTAL PROBATE PART CASES PENDING _____

5. OTHER PROBATE PART MATTERS

- a. Motions or Petitions in Pending Probate Part Cases a _____
- b. SITF Withdrawal Applications b _____
- c. SITF Hearings c _____

TOTAL OTHER PROBATE PART MATTERS _____

6. SURROGATE'S COURT PROBATE MATTERS

- a. Probate of Wills and Letters Testamentary a _____
- b. General Administrations b _____
- c. Affidavits in Lieu of Administration c _____
- d. Guardianships of Minors d _____
- e. Administration *Ad Prosequendum* e _____
- f. Testamentary Trustee/ Successor Trustee Qualification f _____
- g. Other g _____

TOTAL SURROGATE'S COURT PROBATE MATTERS _____

OTHER SURROGATE'S COURT ACTIVITIES

- a. Accounting Audits for Probate Part a _____
- b. SITF Withdrawal Orders b _____
- c. Total SITF Checks Issued During the Month c _____

TOTAL OTHER SURROGATE'S COURT ACTIVITIES _____

Person Preparing Report _____ Telephone No. _____ Reviewed by (AJ /TCA/or ATCA) _____
Signature of Surrogate or Designee _____

Appendix C - Administrative Office of the Courts Probate Part Caseflow Metrics

Probate Part Case Processing Time Standard / Improvement Plans

The time standard for disposition of Probate Part cases is 12 months. Any Probate Part case older than 12 months is in backlog. Vicinages with Probate Parts in the lower third of the case backlog report (*i.e.*, the “Diamond Report”) may be asked to prepare and submit improvement plans.

Definitions

Active Pending means all Probate Part cases not resolved and disposed of. Active cases are either in “inventory” or in “backlog.”

Added means the number of incoming cases. Added cases include newly filed, reopened, reactivated and transferred cases. "Added" and "Filed" are used interchangeably to indicate the number of incoming cases.

Average Time to Disposition is calculated by dividing the number of active pending cases by average monthly dispositions.

Backlog means the number of active pending cases that are not within accepted case processing timeframe. Cases are aged from date of complaint inclusive of any periods of closure or inactivity. Probate Part cases are in backlog after 12 months.

Backlog Percentage means the percent of Active Pending cases that are over 12 months old (Backlog divided by Active Pending times 100).

Backlog per 100 Monthly Filings means Backlog divided by Previous Court Year's Probate Part Filings divided by 12 (*i.e.*, average monthly filings in the previous court year) multiplied by 100.

Clearance means Dispositions minus Cases Added. Negative clearance is possible when cases added exceed dispositions.

Clearance Percentage means Dispositions divided by Added cases multiplied by 100. The number of case dispositions as a percentage of new case filings in a given time period offers a clearance rate, a summary measure of whether the Probate Part is keeping up with its incoming caseload and the workload confronting the Part.

Disposed (Disposition) means the termination of the case on the court’s docket by trial, summary judgment, settlement, default judgment, dismissal, inactivation, transfer or other summary disposition. “Disposed" and "Termination" are used interchangeably. A disposition may occur before or after a Probate Part action has been scheduled for trial.

Inventory means active pending cases within the normative case-processing timeframe (*i.e.*, under the 12 month time goal for Probate cases).

Reopened means a case that has previously been reported as disposed and is brought back to the court for further adjudication through a motion or other application.