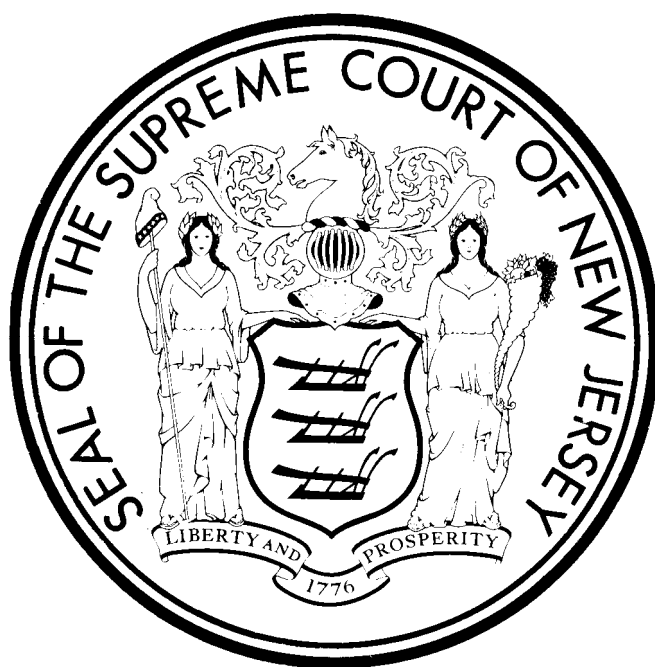


# **FAMILY PRACTICE COMMITTEE REPORT**



## **2011-2013 RULES CYCLE**

January 15, 2013

## Table of Contents

I.	Introduction.....	1
II.	Proposed Rule Amendments.....	2
A.	Proposed Technical Amendment to R. 1:5-6(c)(1)(C) - Filing; Nonconforming Papers....	2
	Ensure that a caregiver assessment accompanies the filing of a kinship legal guardianship (KLG) complaint.....	2
	Rule 1:5-6. Filing .....	3
B.	Proposed Technical Amendment to R. 1:38-3 - Court Records Excluded from Public Access .....	5
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	5
	Rule 1:38-3. Court Records Excluded from Public Access.....	6
C.	Proposed Technical Amendment to R. 2:6-11 - Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status .....	8
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	8
	Rule 2:6-11. Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status .....	9
D.	Proposed Amendments to R. 5:1-4 - Differentiated Case Management in Civil Family Actions - Arbitration Track.....	10
	Differentiated Case Management in Civil Family Actions to Provide for a New Arbitration Track .....	10
	R. 5:1-4. Differentiated Case Management in Civil Family Actions .....	11
E.	Proposed Amendment to R. 5:3-5(d) - Attorney Fees and Retainer Agreements in Civil Family Actions; Withdrawal - Withdrawal from Representation Withdrawal from Representation before Trial Date .....	13
	Withdrawal from Representation before Trial Date .....	13
	R. 5:3-5. Attorney Fees and Retainer Agreements in Civil Family Actions; Withdrawal. ....	14
F.	Proposed Technical Amendment to R. 5: 4-2(f) - Complaint - Affidavit or Certification of Insurance Coverage .....	16
	Maintaining Insurance Coverage throughout Litigation .....	16
G.	Proposed Amendment to R. 5: 4-2(g) - Complaint - Confidential Litigant Information Sheet .....	16
	Requirement to File Confidential Litigant Information Sheet with All Non-Dissolution Pleadings.....	16
	R. 5:4-2. Complaint.....	17
H.	Proposed Amendments to R. 5:5-2 - Family Case Information Statement, and R. 5:5-3 - Financial Statement in Summary Support Actions .....	19
	Required Use of Case Information Statement in Non-Dissolution Matters.....	19
	R. 5:5-2. Family Case Information Statement.....	22
	R. 5:5-3. Financial Statement in Summary Support Actions. ....	24

I.	Proposed Technical Amendment to R. 5:9A-2 - Filing and Service.....	26
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	26
	Rule 5:9A-2. Filing and Service.....	27
J.	Proposed Technical Amendment to R. 5:9A-3(b) - Venue in Actions Concerning Kinship Legal Guardianship.....	28
	Conform Rule to practice -- Kinship legal guardianship post-judgment actions are processed as applications and not as motions .....	28
	Rule 5:9A-3. Venue in Actions Concerning Kinship Legal Guardianship .....	29
K.	Proposed Technical Amendments to Rules 5:10-3, -5 and -7.....	30
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	30
	Rule 5:10-3. Contents of Complaint.....	31
	Rule 5:10-5. Post-Complaint Submissions.....	33
	Rule 5:10-7. Judicial Surrender of Parental Rights .....	35
L.	Proposed Amendments to R. 5:10-12 - Judgment of Adoption; Procedures for Closing and Sealing Adoption Records.....	36
	1. Proposed amendment to R. 5:10-12(a) to require certain information to be included in a judgment of adoption .....	36
	2. Proposed amendment to R. 5:10-12(e) to require a Surrogate to file the report of adoption with out-of-state registrars to ensure issuance of a new birth certificate for an adopted child.....	36
	3. Proposed technical amendment to R. 5:10-12(g) - Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.....	37
	Rule 5:10-12. Judgment of Adoption; Procedures for Closing and Sealing Adoption Records. .....	39
M.	Proposed Technical Amendment to R. 5:10A - Adoption of a Child or an Adult; Use of Automated System; Name Checks.....	42
	Delete text relating to the timeframe for backloading of cases into the case management system for adoption matters (FA docket).....	42
	Rule 5:10A. Adoption of a Child or an Adult; Use of Automated System; Name Checks.....	43
N.	Proposed Amendments to R. 5:12-1 - Complaint .....	44
	1. Proposed technical amendment to R. 5:12-1(a) through (e) - Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	44
	2. Proposed amendment to R. 5:12-1(b) and redesignation as paragraph (a) to memorialize the current practice that the Division of Protection and Permanency (Division) file notices of placement (NOP) and notices of change (NOC) with the court in all cases where the Division places a child in an out-of-home placement .....	44
	Rule 5:12-1. Complaint .....	46
O.	Proposed Technical Amendment to Rules 5:12-3, -4, -6 and 5:13-1.....	52
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16 .....	52

	Rule 5:12-3. Discovery.....	53
	Rule 5:12-4. Case Management Conference, Hearings, or Trial.....	54
	Rule 5:12-6. Matters Involving Law Enforcement.....	56
	Rule 5:13-1. Definitions.....	58
P.	Proposed Technical Amendment to R. 5:13-4 - Initial Court Determination.....	59
	Correct the reference to state that the court provides its order to certain parties.....	59
	Rule 5:13-4. Initial Court Determination.....	60
Q.	Proposed Amendment to R. 5:13-5 - Court Orders; Submission of Placement Plan.....	61
	Amend Rule so as to be Consistent with Administrative Directive #04-10.....	61
	Rule 5:13-5. Court Orders; Submission of Placement Plan.....	62
R.	Proposed Amendment to R. 5:13-6 - Board Determination.....	63
	Clarifies that Child Placement Review Board makes recommendations to the court.....	63
	Rule 5:13-6. Board Determination.....	64
S.	Proposed Technical Amendment to R. 5:18-2 - Temporary out-of-home placement; hearing.....	65
	Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.....	65
	Rule 5:18-2. Temporary out-of-home placement; hearing.....	66
T.	Proposed Amendments to Appendix V Family Part Case Information Statement.....	67
	Proposed amendments to Family Case Information Statement after comprehensive review .....	67
III.	Proposed New Rules.....	68
A.	Proposed New R. 5:1-5 - Arbitration.....	68
	Proposed scope, prerequisites and conduct of pending litigation in arbitrated cases.....	68
	[New] R. 5:1-5. Arbitration.....	69
B.	Proposed New Appendix - Arbitration Questionnaire.....	71
C.	Proposed New Appendix - Agreement to Arbitrate pursuant to N.J.S.A. 2A:23A-1, et seq., and Arbitrator Disclosure Form.....	71
D.	Proposed New Appendix - Agreement to Arbitrate pursuant to N.J.S.A. 2A:23B-1, et seq., and Arbitrator Disclosure Form.....	71
IV.	Issues Considered Without Recommendation.....	72
A.	Review of Rules 5:8A and 5:8B to replace "parenting time/visitation" with "parenting time".....	72
B.	Case Information Statement.....	72
	1. Requirement to file a case information statement (CIS) with a modification or an enforcement action.....	72
	2. Include interest rate and term of existing residential mortgages.....	72
	3. Define "marital lifestyle".....	73
	4. Consideration of savings as an element of alimony.....	73
C.	Procedure for Filing a Certification of Services with a Counsel Fee Application.....	73
D.	Review of R. 5:5-4 to Address Situations When a Payor Does Not Contest the Ability to Pay Support.....	73

E.	Requirement to Submit Property Settlement Agreement (PSA)to the Court.....	74
V.	Other Recommendations.....	75
A.	Proposed amendment to R. 4:52-1(b) - Temporary Restraint and Interlocutory Injunction- Application on Filing of Complaint - Order to Show Cause as Process; Service.....	75
	Discussion .....	75
	Recommendation.....	75
VI.	Matters Held for Consideration .....	76
A.	Proposed amendment to R. 1:38-7(e) - Confidential Personal Identifiers - Redaction of Required Personal Identifiers.....	76
	Permitting unredacted social security numbers on qualified domestic relations orders ...	76
B.	Proposed amendment to R. 5:4-2(f) - Complaint - Affidavit or Certification of Insurance Coverage .....	76
	Require only the last four digits of any policy number, group number, or I.D. number on the Certification of Insurance Coverage to protect privacy pursuant to R. 1:38-7(a).....	76
C.	Proposal to Adopt a Family Part Rule to Apply R. 4:58 - Offer of Judgment - to Dissolution Matters.....	77
	Adopt a Family Part Rule to apply R. 4:58 - Offer of Judgment - to Dissolution Matters	77
	Committee Members and Staff .....	78
	List of Attachments.....	79

## **I. Introduction**

The Supreme Court Family Practice Committee ("Committee") recommends that the Supreme Court adopt the proposed rule amendments and new rules contained in this report. Also in this report, the Committee reviewed other issues, some requiring no rule changes and some where the Committee makes non-rule recommendations.

Where rule changes are proposed, deleted text is bracketed [**as such**], and added text is underlined **as such**. No change to a paragraph of the rule is indicated by ". . . **no change**."

## II. Proposed Rule Amendments

### A. **Proposed Technical Amendment to R. 1:5-6(c)(1)(C) - Filing; Nonconforming Papers**

#### **Ensure that a caregiver assessment accompanies the filing of a kinship legal guardianship (KLG) complaint**

The Committee proposes a technical amendment to R. 1:5-6(c)(1)(C). The court rule sets out the authority for the clerk of the court to reject the papers for filing if they do not include certain documents. This amendment memorializes the practice of not docketing a kinship legal guardianship (KLG) complaint until a completed caregiver assessment is filed with the complaint. This caregiver assessment is a study of the prospective guardian's home, also known as a home study. The resulting caregiver assessment document is required to be filed with the complaint pursuant to N.J.S.A. 3B:12A-5.b. Therefore, the Committee recommends the following technical amendment.

**Rule 1:5-6. Filing**

(a) Time for Filing. . . . no change

(b) What Constitutes Filing With the Court. . . . no change

(c) Nonconforming Papers. The clerk shall file all papers presented for filing and may notify the person filing if such papers do not conform to these rules, except that

(1) the paper shall be returned stamped "Received but not Filed (date)" if it is presented for filing unaccompanied by any of the following:

(A) . . . no change

(B) . . . no change

(C) in Family Part actions, the affidavit of insurance coverage required by R. 5:4-2(f), the Parents Education Program registration fee required by N.J.S.A. 2A:34-12.2, the Affidavit of Verification and Non-Collusion as required by R. 5:4-2(c), the Confidential Litigant Information Sheet as required by R. 5:4-2(g) in the form prescribed by the Administrative Director of the Courts, or the Affidavit or Certification of Notification of Complementary Dispute Resolution Alternatives as required by R. 5:4-2(h) in the form prescribed in Appendix XXVII-A or XXVII-B of these rules; the kinship caregiver assessment required in the Kinship Legal Guardianship petition pursuant to N.J.S.A. 3B:12A-5.b; or

(D) . . . no change

(E) . . . no change

(2) . . . no change

(3) . . . no change

(4) . . . no change

(d) Misfiled Papers. . . . no change

(e) Attorneys Answerable for Clerk's Fees. . . . no change



Note: Source - R.R. 1:7-11, 1:12-3(b), 2:10, 3:11-4(d), 4:5-5(a), 4:5-6(a) (first and second sentence), 4:5-7 (first sentence), 5:5-1(a). Paragraphs (b) and (c) amended July 14, 1972 to be effective September 5, 1972; paragraph (c) amended November 27, 1974 to be effective April 1, 1975; paragraph (b) amended November 7, 1988 to be effective January 2, 1989; paragraph (b) amended June 29, 1990 to be effective September 4, 1990; paragraph (c) amended November 26, 1990 to be effective April 1, 1991; paragraphs (b) and (c) amended, new text substituted for paragraph (d) and former paragraph (d) redesignated paragraph (e) July 13, 1994 to be effective September 1, 1994; paragraph (b)(1) amended, new paragraph (b)(2) adopted, paragraphs (b)(2), (3), (4), (5) and (6) redesignated paragraphs (b)(3), (4), (5), (6) and (7), and newly designated paragraph (b)(4) amended July 13, 1994 to be effective January 1, 1995; paragraphs (b)(1), (3) and (4) amended June 28, 1996 to be effective September 1, 1996; paragraph (b)(4) amended July 10, 1998 to be effective September 1, 1998; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (c)(1) and (c)(3) amended July 28, 2004 to be effective September 1, 2004; subparagraph (c)(1)(E) adopted, paragraphs (c)(2) and (c)(3) amended, and paragraph (c)(4) adopted July 27, 2006 to be effective September 1, 2006; paragraph (b) amended June 15, 2007 to be effective September 1, 2007; subparagraph (c)(1)(C) amended July 16, 2009 to be effective September 1, 2009; subparagraph (c)(1)(E) amended December 20, 2010 to be effective immediately; subparagraphs (b)(4) and (c)(1)(C) amended July 21, 2011 to be effective September 1, 2011; subparagraph (c)(1)(C) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

***B. Proposed Technical Amendment to R. 1:38-3 - Court Records Excluded from Public Access***

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 1:38-3(d)(12) to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

**Rule 1:38-3. Court Records Excluded from Public Access**

The following court records are excluded from public access:

(a) General. . . . no change

(b) Internal Records. . . . no change

(c) Records of Criminal and Municipal Court Proceedings. . . . no change

(d) Records of Family Part Proceedings.

(1) . . . no change

(2) . . . no change

(3) . . . no change

(4) . . . no change

(5) . . . no change

(6) . . . no change

(7) . . . no change

(8) . . . no change

(9) . . . no change

(10) . . . no change

(11) . . . no change

(12) Records relating to Division of [Youth and Family Services] Child Protection

and Permanency proceedings held pursuant to R. 5:12;

(13) . . . no change

(14) . . . no change

(15) . . . no change

(16) . . . no change

(17) . . . no change

(e) Records of Guardianship Proceedings. . . . no change

(f) Records of Other Proceedings. . . . no change

**NOTE:** New Rule 1:38-3 adopted July 16, 2009 to be effective September 1, 2009; subparagraph (b)(1) amended December 9, 2009 to be effective immediately; paragraphs (e) and (f) amended January 5, 2010 to be effective immediately; subparagraph (c)(11) amended, subparagraph (c)(12) adopted, and subparagraph (d)(10) amended February 16, 2010 to be effective immediately; subparagraph (d)(1) amended June 23, 2010 to be effective July 1, 2010; paragraph (e) amended October 26, 2010 to be effective immediately; subparagraph (d)(12) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**C. Proposed Technical Amendment to R. 2:6-11 - Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status**

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 2:6-11(f) to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

**Rule 2:6-11. Time for Serving and Filing Briefs; Appendices; Transcript; Notice of Custodial Status**

(a) Time Where No Cross Appeal Taken. . . . no change

(b) Time Where Cross Appeal Taken. . . . no change

(c) Scheduling Order. . . . no change

(d) Letter to Court After Brief Filed. . . . no change

(e) Advising Court of Custodial Change. . . . no change

(f) Division of [Youth and Family Services] Child Protection and Permanency Matters;

Advising Court of Child's Placement Status. In Division of [Youth and Family Services] Child

Protection and Permanency matters, the appellant or respondent shall by letter advise the court of

any change in the placement status of the child during the pendency of the appeal.

**NOTE:** Source-R.R. 1:7-12(a)(c), 1:10-14(b), 2:7-3. Paragraph (b) amended by order of September 5, 1969 effective September 8, 1969; paragraph (a) amended July 7, 1971 to be effective September 13, 1971; caption and paragraphs (a) and (b) amended June 29, 1973 to be effective September 10, 1973; paragraph (a) amended May 8, 1975 to be effective immediately; paragraphs (c), (d) and (e) adopted July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended and titles of paragraphs (c)(d) and (e) added November 2, 1987 to be effective January 1, 1988; paragraphs (a) and (b) amended July 14, 1992 to be effective September 1, 1992; paragraph (d) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 28, 2004 to be effective September 1, 2004; paragraph (f) adopted July 16, 2009 to be effective September 1, 2009; paragraph (f) amended \_\_\_\_\_ to be effective

\_\_\_\_\_.

**D. Proposed Amendments to R. 5:1-4 - Differentiated Case Management in Civil Family Actions - Arbitration Track**

**Differentiated Case Management in Civil Family Actions to Provide for a New Arbitration Track**

The Committee proposes amendments to R. 5:1-4, which defines the standards for assignment to various case management tracks. This proposed amendment creates a new arbitration track assignment in the event parties enter into a written consent order or agreement to arbitrate issues presented in actions pending before the Family Part. Since this is an election, the court will not be able to reassign the track for good cause as set forth in the proposed amendments to paragraphs (b) and (c). In the event the parties agree to arbitrate, the arbitration would proceed in accordance with the procedure set forth in new proposed R. 5:1-5, below, which defines the scope, prerequisites or conduct of pending legislation.

## **R. 5:1-4. Differentiated Case Management in Civil Family Actions**

(a) Case Management Tracks; Standards for Assignment. Except for summary actions, every civil family action shall be assigned, subject to reassignment as provided by paragraph (c) of this rule, to one of the following tracks as follows:

(1) Priority Track. . . . no change

(2) Complex Track. . . . no change

(3) Expedited Track. . . . no change

(4) Standard Track. Any action not qualifying for assignment to the priority track, complex track, [or] expedited track, or arbitration track shall be assigned to the standard track.

(5) Arbitration Track. At any point in a proceeding, the parties may agree to execute a Consent Order or Agreement to arbitrate the issues pending before the court. If the parties elect to arbitrate the issues before the court, the Arbitration shall proceed pursuant to R. 5:1-5.

(b) Procedure for Track Assignment. The Family Presiding Judge or a judge designated by the Family Presiding Judge shall make the track assignment as soon as practicable after all parties have filed Family Case Information Statements required by R. 5:5-2 or after the case management conference required by R. 5:5-7, whichever is earlier. The track assignment shall not, however, precede the filing of the first responsive pleading in the action. In making the track assignment, due consideration shall be given to an attorney's request for track assignment. If all the attorneys agree on a track assignment, the case shall not be assigned to a different track



except for good cause shown and after giving all attorneys the opportunity to be heard, in writing or orally. The good cause exception shall not apply to a case assigned to the Arbitration Track.

If it is not clear from an examination of the information provided by the parties which track assignment is most appropriate, the case shall be assigned to the track that affords the greatest degree of management. The parties shall be advised promptly by the court of the track assignment.

(c) Track Reassignment. Except with respect to assignment to the Arbitration Track, an [An] action may be reassigned to a track other than that specified in the original notice to the parties either on the court's own motion or on application of a party. Unless the court otherwise directs, such application may be made informally to the Family Presiding Judge or to a judge designated by the Family Presiding Judge and shall state with specificity the reasons therefor.

Note: Adopted January 21, 1999 to be effective April 5, 1999; paragraph (b) amended August 1, 2006 to be effective September 1, 2006; subparagraph (a)(3) amended July 21, 2011 to be effective September 1, 2011; subparagraph (a)(4) amended, subparagraph (a)(5) adopted, and paragraphs (b) and (c) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**E. Proposed Amendment to R. 5:3-5(d) - Attorney Fees and Retainer Agreements in Civil Family Actions; Withdrawal - Withdrawal from Representation Withdrawal from Representation before Trial Date**

**Withdrawal from Representation before Trial Date**

The Committee proposes deleting from R. 5:3-5(d)(1) and -5(d)(2) provisions that require an attorney to withdraw from representation 90 days or more before a matrimonial early settlement panel ("MESP"). In many counties, case managers list cases for MESP appearances much too early in the proceeding and the rule's requirement has the unintended effect of forcing an attorney to withdraw very early in a case.

The Committee agreed that compelling attorneys to file motions to withdraw from representation prior to MESP was too early. It is sufficient for withdrawal applications to be made 90 days prior to a trial date. Proposed R. 5:3-5(d)(2) also provides that if an application for withdrawal is filed fewer than 90 days before trial, the court will retain the discretion to grant or deny the motion based on the factors set forth in R. 5:3-5(d)(2).

**R. 5:3-5. Attorney Fees and Retainer Agreements in Civil Family Actions; Withdrawal.**

(a) Retainer Agreements. . . . no change

(b) Limitations on Retainer Agreements. . . . no change

(c) Award of Attorney Fees. . . . no change

(d) Withdrawal from Representation.

(1) An attorney may withdraw from [the] representation ninety (90) days or more prior to the scheduled trial date [or prior to the Early Settlement Panel hearing, whichever is earlier,] upon the client's consent in accordance with R. 1:11-2(a)(1). If the client does not consent, the attorney may withdraw only on leave of court as provided in subparagraph (2) of this rule.

(2) [After the Early Settlement Panel hearing or after the date] Within ninety (90) days [prior to the] of a scheduled trial date, [whichever is earlier,] an attorney may withdraw from a matter [the action] only by leave of court, on motion with [on] notice to all parties. The motion shall be supported by the attorney's affidavit or certification setting forth the reasons for the application and shall have annexed the written retainer agreement. In deciding the motion, the court shall consider, among other relevant factors, the terms of the written retainer agreement and whether either the attorney or the client has breached the terms of that agreement; the age of the action; the imminence of [the Early Settlement Panel hearing date or] the scheduled trial [date, as appropriate]; the complexity of the issues; the ability of the client to timely retain substituted counsel; the amount of fees already paid by the client to the attorney; the likelihood that the attorney will receive payment of any balance due under the retainer agreement if the matter is tried; the burden on the attorney if the withdrawal application is not granted; and the prejudice to the client or to any other party.

Note: Adopted January 21, 1999 to be effective April 5, 1999; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; new paragraph (a)(10) adopted, and paragraphs (d)(1) and (d)(2) amended July 28, 2004 to be effective September 1, 2004; paragraph (c) amended July 16, 2009 to be effective September 1, 2009; paragraph (c) amended and subparagraphs (d)(1) and (d)(2) amended July 21, 2011 to be effective September 1, 2011; subparagraphs (d)(1) and (d)(2) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**F. Proposed Technical Amendment to R. 5: 4-2(f) - Complaint - Affidavit or Certification of Insurance Coverage**

**Maintaining Insurance Coverage throughout Litigation**

The Committee proposes a technical amendment to R. 5: 4-2(f) to clarify that litigants must maintain the insurances identified in the affidavit or certification of insurance coverage during the pendency of the litigation.

**G. Proposed Amendment to R. 5: 4-2(g) - Complaint - Confidential Litigant Information Sheet**

**Requirement to File Confidential Litigant Information Sheet with All Non-Dissolution Pleadings**

The Committee proposes an amendment to R. 5:4-2(g) to require litigants to file a confidential litigant information sheet (CLIS) with all non-dissolution (FD docket) pleadings. This Rule, in relevant part, addresses the requirement to file a CLIS with all pleadings, and as amended would also include non-dissolution matters.

The requirement to file a CLIS would be extended to applications involving temporary custody, parenting time or paternity. The Committee believes that there is no basis to exclude non-dissolution litigants from this requirement. In addition, the demographic information set forth on the CLIS, and its attendant value to the court system, outweighs any potential administrative difficulty to litigants required to file them.

## **R. 5:4-2. Complaint**

(a) Complaint Generally. . . . no change

(b) Corespondent. . . . no change

(c) Affidavit of Verification and Non-collusion. . . . no change

(d) Counterclaim. . . . no change

(e) Amended or Supplemental Complaint or Counterclaim. . . . no change

(f) Affidavit or Certification of Insurance Coverage. The first pleading of each party shall have annexed thereto an affidavit listing all known insurance coverage of the parties and their minor children, including but not limited to life, health, automobile, and homeowner's insurance. The affidavit shall specify the name of the insurance company, the policy number, the named insured and, if applicable, other persons covered by the policy; a description of the coverage including the policy term, if applicable; and in the case of life insurance, an identification of the named beneficiaries. The affidavit shall also specify whether any insurance coverage was canceled or modified within the ninety days preceding its date and, if so, a description of the canceled insurance coverage. The affidavit shall state the insurance [Insurance] coverage identified in the affidavit shall be maintained pending further order of the court. If, however, the only relief sought is dissolution of the marriage or civil union, or a termination of a domestic partnership, or if a settlement agreement addressing insurance coverage has already been reached, the parties shall annex to their pleadings, in lieu of the required insurance affidavit, an affidavit so stating. Nevertheless, if a responding party seeks financial relief, the responding party shall annex an insurance-coverage affidavit to the responsive pleading and the adverse

party shall serve and file an insurance-coverage affidavit within 20 days after service of the responsive pleading. A certification in lieu of affidavit may be filed.

(g) Confidential Litigant Information Sheet. [The first pleading] All pleadings of each party to any proceeding involving alimony, maintenance, [or] child support, temporary custody, parenting time, visitation or paternity shall be accompanied by a completed Confidential Litigant Information Sheet in the form prescribed by the Administrative Director of the Courts. The form shall be provided at the time of the filing [of the first pleading] of any pleading but shall not be affixed to the pleadings. The information contained in the Confidential Litigant Information Sheet shall be maintained as confidential and shall be used for the sole purposes of establishing, modifying, and enforcing [support] orders. The Administrative Office of the Courts shall develop and implement procedures to maintain the Confidential Litigant Information Sheet as a confidential document rather than a public record. The Confidential Litigant Information Sheet shall contain a certification consistent with R. 1:4-4(b). No copy thereof shall be served on any opposing party.

(h) Affidavit or Certification of Notification of Complementary Dispute Resolution

Alternatives. . . no change

Note: Source-R. (1969) 4:77-1(a)(b)(c)(d), 4:77-2, 4:77-3, 4:77-4, 4:78-3, 5:4-1(a) (first two sentences). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b)(2) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a)(2) and (d) amended November 2, 1987 to be effective January 1, 1988; paragraphs (b)(2) and (c) amended July 13, 1994 to be effective September 1, 1994; paragraph (a)(2) amended July 10, 1998 to be effective September 1, 1998; new paragraph (f) adopted January 21, 1999 to be effective April 5, 1999; paragraph (f) caption and text amended July 12, 2002 to be effective September 3, 2002; new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; new paragraph (h) adopted July 27, 2006 to be effective September 1, 2006; paragraph (h) amended October 10, 2006 to be effective immediately; paragraph (g) amended June 15, 2007 to be effective September 1, 2007; paragraphs (g) and (h) amended July 16, 2009 to be effective September 1, 2009; paragraphs (c), (d), (e), (f) and (g) amended July 21, 2011 to be effective September 1, 2011; paragraphs (f) and (g) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**H. Proposed Amendments to R. 5:5-2 - Family Case Information Statement, and R. 5:5-3 - Financial Statement in Summary Support Actions**

**Required Use of Case Information Statement in Non-Dissolution Matters**

The Committee proposes amending Rules 5:5-2 and 5:5-3 to provide that Family case information statements must be filed in cases involving summary support of spouses, civil union partners and domestic partners. The Committee further proposes amending R. 5:5-3 to address the required filing of information for the allocation of college expenses in non-dissolution matters (FD docket). The rule, as amended, will require the filing party to provide the responding party and the court prior to the hearing copies of the admission letter, tuition bill, proof of grants and loans, grades in prior semesters and course enrollment information for the semester at issue. The Committee believes this documentation is necessary for the court to make an informed decision regarding college expenses.

The focus of this proposed amendment is judicial efficiency. It has been noted that litigants who file applications for non-dissolution issues often involve support for partners and college education. Therefore, the proposed rule amendments focus on those two types of applications. Litigants frequently appear without the information the judge requires to make an accurate ruling. The amendments are intended to alleviate the need to adjourn and reschedule hearings because litigants have failed to bring with them information relevant to the claims asserted on the first hearing date.

The issue relates to the exemption of filing case information statements in the form set out in Appendix V of the Rules of Court in certain non-dissolution matters. In summary actions, an abbreviated financial disclosure form is required by current R. 5:5-3, specifically referred to as the Financial Statement for Summary Support Actions (CN 11223), attached (Attachment A).



The Financial Statement for Summary Support Actions, which is the only form required to be filed pursuant to the rule, is not adequate when judges are required to make determinations regarding spousal support and college contribution in non-dissolution matters. That form does not provide the court with lifestyle and asset and liability information germane to determining spousal support and college contribution. In order to equip the court with all information required to make proper determinations of support and college contribution, the Committee proposes the amendments to Rules 5: 5-2 and -3.

The Committee also recommends adding to R. 5:5-3 language detailing specific documents that litigants should produce to the court. These proofs include documentation of the costs for which litigants seek contribution.

Although R. 5: 5-3 requires the filing of a supplemental certification in summary support matters wherein assets, lifestyle and other relevant information is required, it has been suggested that litigants do not comply with this requirement. This results in the court not having adequate information to determine the issues before it, resulting in adjournments. The adjournments postpone the resolution of often time sensitive issues and otherwise interfere with the court's ability to move matters forward.

The Committee discussed whether the "marital standard of living" column of the case information statement would be confusing to unmarried non-dissolution litigants and to non-dissolution litigants who are not in a civil union. The Committee concluded, however, that it would be understood that unmarried/non-civil union parties could skip that section. In other words, the potential for confusion on this one aspect of the case information statement was secondary to the court's need for the balance of the information required by the case information statement.

The Committee also discussed the practical effect of the proposed rule amendments if self-represented litigants (i.e., traditionally those who are appearing without the necessary information) were not accessing the court rules in the first place. The Committee concluded that the proposed amendments were impactful. First, anecdotally, it seems that a greater number of non-dissolution litigants are being represented by counsel, which in theory would mean the court rules are read and followed by counsel. Also, the additional detail in the court rule permits court staff to provide better direction to litigants as to what they need to bring to court in connection with their applications.

The amendments to the Rules also impact the preparation of court notices to litigants. For example, a common notice to non-dissolution litigants in child support applications requires them to bring three current paystubs, a W-2 form and tax returns to court on the return date of the application. The proposed Rule provides for the additional items that could be added to the notice. The Committee recommends that the Family Part Presiding Judges consider revising the notice to reflect the proposed Rule amendments.

It is not the intention of the Committee to amend these Rules to authorize judges to dismiss certain applications for failure to produce the information required by those amendments. Rather the proposed amendments are oriented so as to achieve more informed results for non-dissolution litigants with greater efficiency. The Committee supports adding such direction to publishers' comments accompanying the Rule.

## **R. 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 [a] 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 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. . . . no change

(d) Income Tax Returns. . . . no change

(e) Marital, Civil Union or Domestic Partnership Standard of Living Declaration. . . . no change

(f) Confidentiality. . . . no change

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 \_\_\_\_\_ to be effective \_\_\_\_\_.

### **R. 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 [In] summary actions [to determine] 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 post-secondary 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 [each party shall, prior to the commencement of any hearing, provide the opposing party and the court with an affidavit or certification of income, assets, needs, expenses, liabilities, and other relevant facts to assist the court in determining the issue of support. each party shall, prior to the commencement of any hearing, provide the opposing party and the court with an affidavit or certification of income, assets, needs, expenses, liabilities, and other relevant facts to assist the court in determining the issue of support]. Pursuant to R. 5:4-2(g), complaints filed in the Family Part [that contain requests for alimony, maintenance, or child support] must include a completed Confidential Litigation 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 \_\_\_\_\_ to be effective \_\_\_\_\_.

***I. Proposed Technical Amendment to R. 5:9A-2 - Filing and Service***

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 5:9A-2(c) to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

**Rule 5:9A-2. Filing and Service**

(a) . . . no change

(b) . . . no change

(c) If, pursuant to N.J.S.A. 30:4C-87, the Division of [Youth and Family Services] Child Protection and Permanency ("Division") seeks kinship legal guardianship as an alternative disposition to a complaint initiated by the Division pursuant to N.J.S.A. 9:6-8.21 or N.J.S.A. 30:4C-15, the Division shall not be required to file a new petition, but may amend the pending complaint in accordance with the Rules of Court. When it appears to the court by Affidavit of Diligent Inquiry filed in the action initiated by the Division that any proper party, including a legal or putative parent, cannot be located, the court shall assume jurisdiction and proceed to hear the matter summarily pursuant to R. 5:12-2. It shall be sufficient to serve parties in default by certified and regular mail at their last known address.

**NOTE:** Adopted July 12, 2002 as Rule 5:9A to be effective September 3, 2002; former text redesignated as paragraph (a), and new paragraphs (b) and (c) adopted July 28, 2004 to be effective September 1, 2004; redesignated as Rule 5:9A-2 and new caption added June 15, 2007 to be effective September 1, 2007; paragraph (c) amended \_\_\_\_\_ to be effective \_\_\_\_\_.



***J. Proposed Technical Amendment to R. 5:9A-3(b) - Venue in Actions Concerning Kinship Legal Guardianship***

**Conform Rule to practice -- Kinship legal guardianship post-judgment actions are processed as applications and not as motions**

The Committee proposes a technical amendment to R. 5:9A-3(b) to conform to R. 5:4-4 and the practice of processing these matters as summary actions. This Rule sets forth the venue requirement of post-judgment kinship legal guardianship actions, which are processed as summary actions pursuant to R. 5:4-4, and not as formal motions. Therefore, the Committee recommends the following technical amendment.

### **Rule 5:9A-3. Venue in Actions Concerning Kinship Legal Guardianship**

(a) . . . no change

(b) [A motion] An application to vacate or modify a judgment for kinship legal guardianship of a child brought pursuant to N.J.S.A. 3B:12A-6(f) shall be brought or the venue laid in the county where the judgment of kinship legal guardianship was originally granted. A motion to change venue may be brought pursuant to R. 4:3-3 and shall be liberally granted.

**NOTE:** Adopted June 15, 2007 to be effective September 1, 2007; paragraph (a) amended July 16, 2009 to be effective September 1, 2009; paragraph (b) amended to be effective \_\_\_\_\_.

***K. Proposed Technical Amendments to Rules 5:10-3, -5 and -7***

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to Rules 5:10-3, -5 and -7 to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

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

(a) Complaint. . . . no change

(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) . . . no change

(2) . . . no change

(3) . . . no change

(4) . . . no change

(5) The agency shall certify as follows:

(A) . . . no change

(B) . . . no change

(C) . . . no change

(D) . . . no change

(E) . . . no change

(F) . . . no change

(G) In [DYFS] 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) . . . no change

(7) . . . no change

(8) . . . no change

(c) Private Adoptions; Attachments. . . . no change

(d) Affidavit of Verification and Non-Collusion. . . . no change

**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 \_\_\_\_\_ to be effective \_\_\_\_\_.

**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 [DYFS] Division of Child Protection and Permanency name checks.

(2) . . . no change

(3) . . . no change

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

(1) . . . no change

(2) . . . no change

(3) . . . no change

(4) Proof of service or affidavit of inquiry on a biological or legal parent or parents in [non-DYFS] 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) . . . no change

(6) . . . no change

(7) . . . no change

(8) . . . no change

(c) . . . no change

(d) . . . no change

**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 to be effective.

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

(a) Procedure. . . . no change

(b) Contents of Request for Judicial Surrender. . . . no change

(c) Hearing. . . . no change

(d) Surrenders Pursuant to N.J.S.A. 9:3-41. This rule shall not prohibit approved adoption agencies or the Division of [Youth and Family Services] 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 \_\_\_\_\_ to be effective \_\_\_\_\_.



**L. Proposed Amendments to R. 5:10-12 - Judgment of Adoption:  
Procedures for Closing and Sealing Adoption Records**

**1. Proposed amendment to R. 5:10-12(a) to require certain information to be included in a judgment of adoption**

The Committee proposes an amendment to R. 5:10-12(a). This rule sets out the requirement for the court to enter a separate judgment of adoption for each adoptee. This amendment would provide for additional information that shall be included in an adoption judgment. Many of these provisions assist a State's registrar in identifying the child so that the birth certificate may be amended and reissued based on the information set out in the body of the judgment.

The Committee discussed concerns regarding proposed subparagraph (a)(1) that would require the judgment to include the initials of the child. This amendment is intended to satisfy foreign jurisdictions that require the child's name in the body of the judgment in order to issue a birth certificate in that jurisdiction. Disclosure of the child's full name may reveal the name of the birth parents, which may violate their right to confidentiality. The revision to provide for only the child's initials protects the identities of the birth parents while still providing other jurisdictions with information regarding the child's name. Therefore, the Committee recommends amending R. 5:10-12(a).

**2. Proposed amendment to R. 5:10-12(e) to require a Surrogate to file the report of adoption with out-of-state registrars to ensure issuance of a new birth certificate for an adopted child**

While R. 5:10-12(e) currently allows a Surrogate to send a report of adoption to another state, it does not require it. A report of adoption is a document that provides to a State Registrar information regarding an adoption so that a new birth certificate may be issued. In some

counties, the Surrogate sends the report of adoption and the certified judgment to the plaintiff or to the attorney for the plaintiff so that they may file the necessary paperwork with an out-of-state registrar. This procedure is of concern since it often leads to the report either not being filed when the plaintiff or counsel do not know how to go about doing so, or requires more work for the Surrogate's staff, who often receive inquiries about how to do this. Fielding those inquiries unnecessarily expends more time and effort on the Surrogate's part than simply sending a report directly to a State Registrar.

Additionally, the amendment addresses confidentiality issues by avoiding the transmittal of the report of adoption directly to the self-represented plaintiff, especially in agency placements where the identities of the birth parents are often unknown to the plaintiff. The subcommittee has learned that several Surrogates already follow this protocol, which the proposed Rule formalizes. In fact, one Surrogate has implemented a procedure for out-of-state registrars to forward the new birth certificate directly to the Surrogate instead of to the plaintiff or plaintiff's attorney to make sure that it has been issued.

Lastly, implementation of this proposed rule amendment also will reduce the number of inquiries from plaintiffs about why they have not yet received their child's new birth certificate when the forms had originally been sent to them or to their attorney. Therefore, the Committee recommends amending R. 5:10-12(e).

**3. Proposed technical amendment to R. 5:10-12(g) - Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 5:10-12(g) to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and

Permanency pursuant to P.L.2012, c.16. Therefore, the Committee recommends amending R.  
5:10-12(g).

**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 which 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. . . . no change

(c) Costs. . . . no change

(d) Certified Copies. . . . no change

(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. . . . no change

(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 [Youth and Family Services (DYFS)] Child Protection and Permanency (the "Division") provides the court with a Notice of Change. If the adoption occurs out of state, [DYFS] 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 \_\_\_\_\_ to be effective \_\_\_\_\_.

***M. Proposed Technical Amendment to R. 5:10A - Adoption of a Child or an Adult; Use of Automated System; Name Checks***

**Delete text relating to the timeframe for backloading of cases into the case management system for adoption matters (FA docket)**

The Committee proposes a technical amendment to R. 5:10A for consideration. This rule provides for the use of the Judiciary's adoption case management system, which has been fully implemented statewide. The rule also requires the backloading of cases in the first six months of implementation in a county. It is expected that the backloading language will be moot by the end of the 2011-2013 rules term. This amendment would delete the backloading language. Therefore, the Committee recommends the following technical amendment.

**Rule 5:10A. Adoption of a Child or an Adult; Use of Automated System; Name Checks**

(a) Use of Automated System. All adoptions shall be recorded using the Judiciary case management system, as prescribed by the Administrative Director of the Courts. Every Surrogate shall use the system to establish, manage and dispose of all adoptions. [Within 180 days of the date the Judiciary's case management system is made available to a County Surrogate, all open pending adoptions of that county shall be backloaded into the Judiciary case management system.]

(b) Name Checks. . . . no change

**NOTE:** Adopted July 21, 2011 to be effective September 1, 2011; paragraph (a) amended \_\_\_\_\_ to be effective \_\_\_\_\_.



***N. Proposed Amendments to R. 5:12-1 - Complaint***

- 1. Proposed technical amendment to R. 5:12-1(a) through (e) - Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 5:12-1(a) through (e) to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

- 2. Proposed amendment to R. 5:12-1(b) and redesignation as paragraph (a) to memorialize the current practice that the Division of Protection and Permanency (Division) file notices of placement (NOP) and notices of change (NOC) with the court in all cases where the Division places a child in an out-of-home placement**

This amendment involves the necessity to amend court rules to memorialize the current practice requiring the Division of Child Protection and Permanency (Division) to file notices of placement (NOP) and notices of change (NOC) with the court in all cases where the Division places a child in an out-of-home placement. This proposal memorializes the already existing Judiciary's procedural requirement that the Division file the NOP as an initiating document to create and to process child placement cases in the courts.

In addition, at the Division's request, both the Division and the Judiciary expended millions of dollars to create a computerized system to file NOPs and NOCs electronically with all of the data elements set out in the proposed rule amendment. Further, the information related to the Division's reasonable efforts to prevent a child's placement, which is also contained in the NOP, assists the court in making findings mandated by federal law. The court's failure to comply with this mandate places federal funds in jeopardy when the Division records are audited by the federal authorities.

Lastly, and equally significant, the Judiciary uses the NOP to gather demographic data such as gender and race independently of the Division so as to address minority concerns issues.

This amendment, therefore, memorializes a meaningful process that has been in existence for decades, and, the Committee recommends amending R. 5:12-1(b).

## **Rule 5:12-1. Complaint**

[(a) Form and Contents. All matters brought by the State of New Jersey, Division of Youth and Family Services, pursuant to N.J.S.A. 30:4C-1 et seq. or N.J.S.A. 9:6-8.21 et seq., shall be brought pursuant to R. 4:67 by complaint entitled in the name or names of the child or children, if known. No formal answer need be filed. The complaint shall allege (1) the name, age, and birthplace of the child in whose name the action is brought, (2) the names of the natural parents of the child, if known, (3) the names and relationship of those having custody of the child at the time the action is brought, if different from the natural parents, (4) a brief statement of the facts upon which the complainant relies, and (5) the exact nature of the relief which the complainant seeks and the statutes relied upon.

(b) Statement as to] (a) Notices Regarding Placement of a Child. If the Division of Child Protection and Permanency ("Division") has removed a child from the home, the Division shall file with the court a notice of placement and a notice of change pursuant to subparagraphs (a)(1) and (a)(2) of this rule.

(1) Notice of Placement of Child. [In addition to the information that is contained in the complaint, the Division of Youth and Family Services shall provide the court with a separate statement as to the addresses of the individuals named and the location of the placement of the child, including the name, address, telephone number, and relationship to the child of the temporary caregiver of each child in the case, and an additional statement regarding that placement information each time a child is placed with a new caregiver.] The Division shall provide the court with a separate notice of placement referenced in R. 5:13-3, which shall be

captioned "In the matter of \_\_\_\_\_, a minor." The notice of placement shall contain the following information:

(A) county of venue,

(B) the child's address,

(C) the child's date of birth,

(D) the child's gender,

(E) the child's race,

(F) the participant number assigned to the child by the Department of Children and Families ("DCF"),

(G) the case number assigned to the family by DCF,

(H) the authority for placement,

(I) the child's date of placement,

(J) whether the placement is a repeat placement,

(K) the type of placement,

(L) the current case goal,

(M) the reasons for placement,

(N) the name and identification number of the Division local office,

(O) the Division worker's name assigned to the case,

(P) the Division supervisor's name assigned to the case,

(Q) the names, addresses, telephone numbers and relationship to the child of the parents or guardian, siblings, current caregiver, and any other persons or agencies that have an interest in, or information relating to, the welfare of the child, and

(R) the reasonable efforts that the Division has made, services offered and services provided to prevent the child's placement, or information about the specific exception to make reasonable efforts to prevent the child's placement.

(2) Notice of Change. The Division shall provide the court with a notice of change, which shall contain the child's name, the court's FC docket number, the child's DCF participant number and the family's DCF case number, the name and identification number of the Division local office, the Division caseworker's name assigned to the case, and the Division supervisor's name assigned to the case. The notice of change also shall identify the information that has been updated, such as:

(A) if the county of venue has changed,

(B) if the child remains in the custody of the current caregiver, the caregiver's change of address and its effective date,

(C) if there is a change in caregiver, the new caregiver's name, address, telephone number, the type of placement and the effective date of that change,

(D) if there has been a change of local office, the name and identification number of the new Division local office, the new Division caseworker's name assigned to the case, the new Division supervisor's name assigned to the case and the effective date of that change,

(E) if either or both parents have changed their addresses or telephone numbers,

(F) if the current case goal has changed to a new case goal,

(G) if it is the end of a current placement and the reason, and

(H) if the child is being discharged from the Division's placement and the reason.

(3) [Such statements] The notice of placement and notice of change shall be treated as confidential in the interest of the child and shall only be provided to the court.

(A) The Division shall provide to [and] the law guardian assigned to represent the child a separate confidential statement of the placement, including the temporary caregiver's name, address, telephone number and relationship to the child, and any notice of change regarding the placement.

(B) Upon notice to all other parties, any party may request, from the court, the notice of placement or notice of change of placement information. The release of the notice or the information contained in it shall be made in the court's discretion. The identity and the address of the caregiver shall remain confidential and shall not be disclosed to any defendant, except for defense counsel, who shall not disclose it to any defendant.

(4) The notice of placement and notice of change shall be filed electronically through the method as determined jointly by the Commissioner of Children and Families and the Administrative Director of the Courts. Only a Division caseworker may enter information into DCF's case management system, and it is that information that will be transmitted to the court. Therefore, such electronic filing shall satisfy the certification requirement set forth in R. 1:4-4(b) and will not require a DCF employee to provide a signed certification.

(b) Form and Contents. All matters brought by the State of New Jersey, Division of Child Protection and Permanency (the "Division"), pursuant to N.J.S.A. 30:4C-1 et seq. or N.J.S.A. 9:6-8.21 et seq., shall be brought pursuant to R. 4:67 by complaint entitled in the name or names of the child or children, if known. No formal answer need be filed. The complaint shall allege (1)

the name, age, and birthplace of the child in whose name the action is brought, (2) the names of the natural parents of the child, if known, (3) the names and relationship of those having custody of the child at the time the action is brought, if different from the natural parents, (4) a brief statement of the facts upon which the complainant relies, and (5) the exact nature of the relief which the complainant seeks and the statutes relied upon.

(c) Signature. The complaint shall be signed by the Attorney General or a designee, except in emergent matters, where the complaint may be signed by the Director of the Division [of Youth and Family Services], or a designee.

(d) Emergent Relief. Temporary or preliminary relief may issue pursuant to R. 4:52-1(a). If it appears from specific facts shown by affidavit or verified complaint that the child/children's life, safety, or health will be in imminent danger before notice can be given or a hearing can be held, temporary relief may issue ex parte. The Division [of Youth and Family Services] shall make reasonable efforts to provide notice to all parties prior to making any application for temporary relief under this rule. Temporary or preliminary relief may issue on a finding that there is reasonable cause to believe a child has been subjected to or will be at risk of abuse or neglect absent such relief; provided, however, that an order for temporary removal of a child may issue only on a finding that the applicable statutory requirements of N.J.S.A. 9:6-8.28 or 9:6-8.29 have been met.

(e) Supporting Documents. All relevant reports of the Division [of Youth and Family Services] and any other reports of experts or other documents upon which the Division intends to rely shall be provided to the court and to counsel for all parties on the first return date of the Order to Show Cause, if then available, or as soon as practicable after they become available. The Division's case file shall also be available for inspection to the attorneys for the parties

without court order. All other discovery by any party shall be permitted only by leave of court for good cause shown.

(f) Testimony. . . . no change

Note: Source -- R. (1969) 5:7A-1(a)(b). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended and paragraph (c) adopted June 28, 1996 to be effective September 1, 1996; paragraphs (b) and (c) redesignated as paragraphs (c) and (d), and new paragraph (b) adopted July 5, 2000 to be effective September 5, 2000; paragraphs (a) and (b) amended, paragraph (c) caption and text amended, new paragraph (d) adopted, former paragraph (d) redesignated as paragraph (e), and new paragraph (f) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a) amended and redesignated as paragraph (b), paragraph (b) caption and text amended and redesignated as paragraph (a), and paragraphs (c) through (e) amended \_\_\_\_\_ to be effective \_\_\_\_\_.



***O. Proposed Technical Amendment to Rules 5:12-3, -4, -6 and 5:13-1***

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to Rules 5:12-3, -4, -6 and 5:13-1 to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

### **Rule 5:12-3. Discovery**

All relevant reports of the Division of [Youth and Family Services] Child Protection and Permanency and other reports of experts or other documents upon which the Division intends to rely shall be provided to the court and to counsel for all parties on the first return date of the Order to Show Cause, if then available, or as soon as practicable after they become available. The Division's case file shall also be available for inspection to the attorneys for the parties without court order. All other discovery by any party shall be permitted only by leave of court for good cause shown.

**NOTE:** Source-R. (1969) 5:7A-3. Adopted December 20, 1983, to be effective December 31, 1983; amended June 28, 1996 to be effective September 1, 1996; amended to be effective \_\_\_\_\_.

**Rule 5:12-4. Case Management Conference, Hearings, or Trial**

(a) Prompt Disposition; Case Management Conference; Adjournments. . . . no change

(b) Hearings in Private; Testimony of Child. . . . no change

(c) Examinations and Investigations. . . . no change

(d) Reports. The Division of [Youth and Family Services] Child Protection and Permanency (the "Division") shall be permitted to submit into evidence, pursuant to N.J.R.E. 803(c)(6) and 801(d), reports by staff personnel or professional consultants. Conclusions drawn from the facts stated therein shall be treated as prima facie evidence, subject to rebuttal.

(e) Written Plan. Upon a finding of abuse or neglect the court may require that the Division [of Youth and Family Services] file a written plan embodying the disposition terms proposed by the Division [of Youth and Family Services]. When required to be filed, such plan shall be served upon all counsel or parties appearing pro se not less than 10 days prior to the dispositional hearing.

(f) Progress Reports. The court may, upon entry of an order of disposition, require that the Division [of Youth and Family Services] file with the court and serve upon all counsel or parties appearing pro se periodic progress reports at such intervals as the court shall require and covering such topics as the court shall designate.

(g) Foreign State Placement. . . . no change

(h) Permanency Hearing. . . . no change

(i) Notice of Proceedings to Care Giver. . . . no change

(j) Termination of Parental Rights Proceedings; Exhibits. . . . no change

**NOTE:** Source-R. (1969) 5:7A-4. Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (e) and (f) adopted November 5, 1986 to be effective January 1,

1987; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (g) adopted July 10, 1998 to be effective September 1, 1998; new paragraphs (h) and (i) adopted July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 28, 2004 to be effective September 1, 2004; note that Appendix X-A previously referenced in paragraph (a) also deleted July 28, 2004 to be effective September 1, 2004; paragraph (d) amended, and captions added to paragraphs (e), (f), and (g) June 15, 2007 to be effective September 1, 2007; paragraph (g) amended July 16, 2009 to be effective September 1, 2009; paragraph (j) adopted June 26, 2012 to be effective November 5, 2012; paragraphs (d), (e) and (f) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

## **Rule 5:12-6. Matters Involving Law Enforcement**

(a) Visitation During Pendency of Related Criminal Action. When a criminal complaint has been filed against a parent or guardian arising out of the same incident as a Division of [Youth and Family Services] Child Protection and Permanency (the "Division") action pursuant to R. 5:12, the Family Part shall determine the nature and scope of parental or guardian visitation, if any, as follows:

(1) On scheduling any hearing at which visitation conditions are to be imposed or modified, the court shall provide notice to the county prosecutor and counsel representing the parent or guardian in the criminal prosecution, as well as to all counsel and parties in the Division [of Youth and Family Services] matter.

(2) Prior to any hearing, the court shall issue an appropriate protective order governing disclosure of confidential Division [of Youth and Family Services] records consistent with N.J.S.A. 9:6-8.10a.

(3) . . . no change

(4) . . . no change

(b) Information Regarding Criminal Investigation. If there is a criminal investigation of an incident that is the basis of a Division [of Youth and Family Services] action pursuant to R. 5:12, the Division may request that the prosecutor provide any relevant information for use in the action. If the Division and the prosecutor are unable to reach an agreement on what information is to be provided, either may request the Assignment Judge to assign a judge to assist in the resolution of the matter. The judge assigned shall conduct a conference without delay. Notice of the conference shall be given to the prosecutor and to all parties to the Division [of Youth and

Family Services] action. The court shall not order the release of pre-indictment information without the agreement of the prosecutor. No rights or privileges that may otherwise exist are affected by this dispute resolution procedure.

**NOTE:** Adopted June 15, 2007 to be effective September 1, 2007; subparagraphs (a)(1) and (a)(2) and paragraph (b) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

### **Rule 5:13-1. Definitions**

The definitions contained in the Child Placement Review Act (N.J.S. 30:4C-50 et al.) apply to this rule. The term "act" as used in this rule means the Child Placement Review Act.

The term "board" as used in this rule means a child placement review board established under the act. The term "court" as used in this rule means the Superior Court, Chancery Division, Family Part in the child's county of supervision. The term "[division] Division" as used in this rule means the Division of [Youth and Family Services] Child Protection and Permanency of the Department of Children and Families.

**NOTE:** Source-R. (1969) 5:7B(a). Adopted December 20, 1983, to be effective December 31, 1983; amended November 5, 1986 to be effective January 1, 1987; amended July 16, 2009 to be effective September 1, 2009; amended \_\_\_\_\_ to be effective \_\_\_\_\_.

***P. Proposed Technical Amendment to R. 5:13-4 - Initial Court Determination***

**Correct the reference to state that the court provides its order to certain parties**

The Committee proposes a technical amendment to R. 5:13-4 for consideration. This rule sets out the procedure regarding the court's initial determination and subsequent actions when the Division has removed a child from his or her home. This amendment would correct a typographical error, which incorrectly states that the court gives a copy of a notice of placement to the Division, among other parties. The court, in fact, provides a copy of its order to those parties. Therefore, the Committee recommends the following technical amendment.



#### **Rule 5:13-4. Initial Court Determination**

The court, within 15 days following receipt of the notice of the initial placement pursuant to a voluntary agreement, shall make a determination in the manner prescribed by the act including a determination as to whether or not reasonable efforts have been made to prevent the placement, which determination shall be entered as an order in the form prescribed by the Administrative Director of the Courts. The court shall give a copy of the [notice of placement] order to the [division] Division, the child, the parents or legal guardian and such other persons or agencies which the court determines have an interest in or information relating to the welfare of the child, which may include the temporary caretaker. If the court schedules a hearing it shall provide written notice thereof in the manner prescribed by the act.

**NOTE:** Source-R. (1969) 5:7B(d). Adopted December 20, 1983, to be effective December 31, 1983; amended July 13, 1994 to be effective September 1, 1994; amended July 16, 2009 to be effective September 1, 2009; amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**Q. Proposed Amendment to R. 5:13-5 - Court Orders; Submission of Placement Plan**

**Amend Rule so as to be Consistent with Administrative Directive #04-10**

The Committee proposes an amendment to R. 5:13-5. This rule sets out the procedure for the court to provide its orders to a child placement review (CPR) board before a 45 Day Enhanced Review is held. Pursuant to Administrative Directive #04-10, in litigated cases (those in which the Division files an order to show cause with the court), a CPR board conducts only the 45 Day Enhanced Review, and has no further involvement with the case after that review. To ensure confidentiality of the subsequent court proceedings in litigated cases, any court orders entered after the 45 Day Review in those cases shall not be provided to the CPR board.

The Committee also recommends the Division must submit the child's placement plan to the court within 30 of the child's placement pursuant to N.J.S.A. 30:4C-58.

Therefore, the Committee recommends the following technical amendment.

### **Rule 5:13-5. Court Orders; Submission of Placement Plan**

[Whenever a judge enters a final order] All orders entered by the court prior to the 45 Day Enhanced Review by the Child Placement Review Board placing a child in the care or custody of the division pursuant to N.J.S. 9:6-8.54, N.J.S. 30:4C-12, N.J.S. 2A:4A-43 or N.J.S. 2A:4A-46 [placing a child in the care or custody of the division, the order] shall be provided by the court to the board. [contain a direction that the] The [division] Division shall submit a placement plan to the [board] court within [45] 30 days of the [order] date of placement. In any case in which the placement is the result of a court order [the plan and] the notice of the 45 Day Child Placement Review [hearing] shall be made available to all counsel or parties appearing pro se who have related matters pending before the Family Part of Superior Court. In addition, counsel or parties appearing pro se shall receive timely notice of all subsequent proceedings and orders under the Child Placement Review Act relating to that litigation.

Note: Source-R. (1969) 5:7B(e). Adopted December 20, 1983, to be effective December 31, 1983; amended November 5, 1986 to be effective January 1, 1987; amended \_\_\_\_\_ to be effective \_\_\_\_\_.

***R. Proposed Amendment to R. 5:13-6 - Board Determination***

**Clarifies that Child Placement Review Board makes recommendations to the court**

The Committee proposes a technical amendment to R. 5:13-6. This rule provides that parties must be provided notice of a CPR board review of a child in the foster care system, and that the CPR board make a determination regarding the child. A CPR board does not, however, make determinations regarding a child's placement. It makes recommendations to the court, and the court makes the determination as to the child. This amendment would correct the rule to reflect a CPR board's authority to make recommendations. Therefore, the Committee recommends the following technical amendment.

### **Rule 5:13-6. Board Determination**

The board shall provide written notice of its review and make [a Determination] recommendations in the manner prescribed by the act.

**NOTE:** Source-R. (1969) 5:7B(f). Adopted December 20, 1983, to be effective December 31, 1983; amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**S. Proposed Technical Amendment to R. 5:18-2 - Temporary out-of-home placement; hearing**

**Name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16**

The Committee proposes a technical amendment to R. 5:18-2 to reflect the name change of the Division of Youth and Family Services to the Division of Child Protection and Permanency pursuant to P.L.2012, c.16.

## **Rule 5:18-2. Temporary out-of-home placement; hearing**

(a) Time; Appearances. The court shall hold a hearing on an out-of-home placement petition within 24 hours after it has been filed. All necessary parties shall be notified of the hearing pursuant to R. 5:15-3 and their presence secured, if necessary, by warrant pursuant to R. 5:17-1. The juvenile shall be represented by counsel and if indigent, counsel shall be appointed by the court. The court may request attendance at the hearing of a representative of the Division of [Youth and Family Services] Child Protection and Permanency (the "Division").

(b) Hearing; Disposition. Based on the evidence adduced at the hearing, the court shall either approve or disapprove the temporary out-of-home placement. Approval of temporary out-of-home placement shall be made only if either serious conflict or other problem between the parent or guardian and the juvenile exists which cannot be resolved by the delivery of services to the family while the juvenile is residing at home; or the physical safety and well-being of the juvenile would be threatened if the juvenile resided at the parental home. The order approving the temporary placement shall direct the Division [of Youth and Family Services] or other service or agency to submit a family service plan and to make custodial recommendations pursuant to N.J.S. 2A:4A-89(c) and (d). The order shall set a specific date when the plan is due and shall also instruct the agency to transmit the family service plan to all counsel or parties appearing pro se no later than 3 court days prior to the due date of the hearing. If the court disapproves a petition for temporary out-of-home placement, it shall file a written statement of its reasons therefor and order the juvenile to remain at or return to the parental home.

(c) Family Service Plan. . . . no change

**NOTE:** Source-new. Adopted December 20, 1983, to be effective December 31, 1983; paragraphs (b) and (c) amended November 5, 1986 to be effective January 1, 1987; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraphs (a) and (b) amended \_\_\_\_\_ to be effective \_\_\_\_\_.

**T. Proposed Amendments to Appendix V Family Part Case Information Statement**

**Proposed amendments to Family Case Information Statement after comprehensive review**

The Committee engaged in a comprehensive review of the Family Part case information statement (CIS) including a compilation and comparison of family financial statements from other states. The Committee concluded that the New Jersey Family Part CIS addressed New Jersey's needs better than those of other jurisdictions and that no wholesale revision was necessary. The major proposed amendment is in the instructions, most for purposes of stressing the importance of the CIS to self-represented litigants. Additional amendments are proposed as to the basic form, adding items to the CIS's budget, such as the cost of pet care, home security systems and condominium or association fees. As to income, the Committee proposes adding questions related to employer paid expenses paid such as automobile (lease or purchase), automobile expenses, gas, repairs, insurance, lodging and other. An additional inquiry references a schedule of safes/safe deposit boxes.

The Committee proposes additional amendments to the asset and liabilities pages of the CIS to distinguish between assets or liabilities subject to equitable distribution and those exempt from equitable distribution.

The proposed amendments also clarify that both the certification as to confidential personal identifiers under R. 1:38-7(b) and the certification as to the truthfulness of the content of the CIS shall be signed by the litigant/client and not the attorney. Therefore, the Committee recommends the amendments set forth in the proposed Family Part CIS, attached (Attachment B).



### III. Proposed New Rules

#### A. Proposed New R. 5:1-5 - Arbitration

##### **Proposed scope, prerequisites and conduct of pending litigation in arbitrated cases**

The Committee proposes new R. 5:1-5, which sets out the procedure and forms to be used in family matters where the parties agree to arbitrate as referenced in the new arbitration track set forth in the proposed amendment to R. 5:1-4, above. Notable policy recommendations include:

- Subparagraph (a)(2) - Prior to the execution of an Agreement or Consent Order, each party will be required to execute the proposed Arbitration Questionnaire, recommended for inclusion in the Appendix to the Rules.<sup>1</sup>
- Subparagraph (a)(3) - An arbitration should be pending for "no more than one year following arbitration track assignment which term may be modified by the court for good cause shown."
- Subparagraph (a)(4) - Cases assigned to the arbitration track should be given scheduling consideration by the court when fixing trial dates in other matters.
- Paragraph (d) - Examples of forms to arbitrate pursuant to N.J.S.A. 2A:23A-1 and N.J.S.A. 2A:23B-1 are referenced and proposed for inclusion in the Appendix to the Rules.

---

<sup>1</sup> A previous version of this Arbitration Questionnaire was appended to the Committee's 2009-2011 Rules Cycle Report. See 2009-2011 Family Practice Committee Report at 102-05.

## **[New] R. 5:1-5. Arbitration**

### [New] R. 5:1-5. Arbitration

#### (a) Scope of Rule, Prerequisites, and Conduct of Pending Litigation:

(1) This Rule shall govern all Agreements to Arbitrate (hereinafter "Agreements") and all Consent Orders to Arbitrate (hereinafter "Consent Orders") including but not limited to those entered into pursuant to the New Jersey Alternative Procedure for Dispute Resolution Act, N.J.S.A. 2A:23A-1, et seq., or the Uniform Arbitration Act, N.J.S.A. 2A:23B-1, et seq., or any other agreed upon framework for arbitration of disputes between and among parties to any proceeding arising from a family or family-type relationship, as defined in R. 5:1-2, except: (A) the annulment or dissolution of the relationship; (B) actions involving the Division of Child Protection and Permanency; (C) domestic violence actions; (D) juvenile delinquency actions; [and] (E) family crisis actions; (F) and adoption actions.

(2) Prior to the execution of any Agreement or entry of a Consent Order, each party shall review and execute the Arbitration questionnaire, which is set forth in Appendix \_\_\_\_\_ [proposed as Attachment C in this report], and each party's questionnaire shall be attached to the Agreement or Consent Order.

(3) Any action pending at the time that an Agreement or Consent Order to arbitrate is reached, shall be placed on the Arbitration track referenced in R. 5: 1-4 for no more than one year following arbitration track assignment which term may be modified by the court for good cause shown.

(4) Cases assigned to the arbitration track should be given scheduling consideration when fixing trial dates in other matters.

(5) If the parties have entered into an Agreement or Consent Order to arbitrate, the certification filed pursuant to R. 5:4-2(h) shall reflect their written Agreement.

(b) Unless the Agreement or Consent Order provides otherwise, any interim award of the arbitrator shall be subject to confirmation by the court in accordance with R. 4:42-1(b).

(c) Unless the Agreement or Consent Order provides otherwise, the final award of the arbitrator shall be confirmed pursuant to the procedures set forth in N.J.S.A. 2A:23A-1, et seq. and/or N.J.S.A. 2A:23B-1, et seq.

(d) Appendix \_\_\_\_ [proposed as Attachment D in this report] is an example of a form to arbitrate pursuant to N.J.S.A. 2A:23A-1 and Appendix \_\_\_\_ [proposed as Attachment E in this report] is an example of a form to arbitrate pursuant to N.J.S.A. 2A:23B-1.

Note: Adopted \_\_\_\_\_, to be effective \_\_\_\_\_.

**B. Proposed New Appendix - Arbitration Questionnaire**

The Committee developed a script for use by lawyers and judges in cases in which the parties seek to bind themselves to arbitration in family law matters as directed in Fawzy v. Fawzy, 199 N.J. 456, 482 (2009). The Committee recommends appending the proposed arbitration questionnaire (Attachment C) to the Rules of Court.

**C. Proposed New Appendix - Agreement to Arbitrate pursuant to N.J.S.A. 2A:23A-1, et seq., and Arbitrator Disclosure Form**

The Committee developed a form agreement to arbitrate family law matters pursuant to N.J.S.A. 2A:23A-1, et seq. The agreement to arbitrate form shall have appended to it an arbitrator disclosure form. The Committee recommends appending this proposed agreement to arbitrate (Attachment D) to the Rules of Court as a sample to be used to refer matters to arbitration.

**D. Proposed New Appendix - Agreement to Arbitrate pursuant to N.J.S.A. 2A:23B-1, et seq., and Arbitrator Disclosure Form**

The Committee developed a form agreement to arbitrate family law matters pursuant to N.J.S.A. 2A:23B-1, et seq. The agreement to arbitrate form shall have appended to it an arbitrator disclosure form. The Committee recommends appending this proposed agreement to arbitrate (Attachment E) to the Rules of Court as a sample to be used to refer matters to arbitration.

#### **IV. Issues Considered Without Recommendation**

**A. Review of Rules 5:8A and 5:8B to replace "parenting time/visitation" with "parenting time"**

This issue relates to proposed amendments to R. 5:8A and R. 5:8B to change the reference of "parenting time/visitation" in each of those court rules to "parenting time." Those court rules not only apply to parenting time alone, but also apply to matters concerning third-party applications for access to children, including grandparent and sibling applications. In those instances, use of the term "parenting time" alone would be inappropriate. The Committee believes no rule recommendation is necessary.

**B. Case Information Statement**

**1. Requirement to file a case information statement (CIS) with a modification or an enforcement action**

The Committee considered whether a rule recommendation is necessary to clarify when a CIS must be filed. The Committee believes it is not necessary to provide additional guidance by rule amendment. The trial court, in its discretion, may require the filing of a CIS at any time to inform its decision on the application. The Committee makes no rule recommendation at this time.

**2. Include interest rate and term of existing residential mortgages**

The Committee considered whether a recommendation is necessary to include the interest rate and term of any existing residential mortgages on the CIS. The Committee believes it is not necessary to require the inclusion of these items on the CIS, and therefore makes no recommendation to amend the CIS form.

### 3. Define "marital lifestyle"

The Committee considered whether a recommendation is necessary to define marital lifestyle on the CIS. The Committee believes it is not necessary to require the inclusion of this item on the CIS, and therefore makes no recommendation to amend the CIS form.

### 4. Consideration of savings as an element of alimony

The Committee considered whether a recommendation is necessary to address savings as an element of alimony. The Committee makes no recommendation regarding this substantive issue.

#### **C. Procedure for Filing a Certification of Services with a Counsel Fee Application**

The Committee considered whether a rule recommendation is necessary to set out when a certification of services must be filed in relation to a counsel fee application. The Committee believes R. 5:3-5(c) states the court has discretion to make an allowance both *pendente lite* and at final resolution of the matter to award counsel fees. Therefore, the Committee makes no rule recommendation at this time.

#### **D. Review of R. 5:5-4 to Address Situations When a Payor Does Not Contest the Ability to Pay Support**

The Committee considered whether a rule recommendation is necessary to address situations when a payor does not contest the ability to pay support. The request to the Committee was later withdrawn. Therefore, the Committee makes no rule recommendation at this time.

***E. Requirement to Submit Property Settlement Agreement (PSA) to the Court***

The Committee considered whether a rule recommendation is necessary to require the filing of a property settlement agreement (PSA) with the court in all matrimonial matters. The Committee believes the court retains discretion regarding whether PSAs must become part of the court's file following the entry of a divorce judgment. Therefore, the Committee makes no rule recommendation at this time.

## V. Other Recommendations

- A. **Proposed amendment to R. 4:52-1(b) - Temporary Restraint and Interlocutory Injunction-Application on Filing of Complaint - Order to Show Cause as Process; Service**

### Discussion

The Committee has discussed a recommendation to amend R. 4:52-1(b) so as not to require a summons for an order to show cause if the order to show cause contains all the requirements set forth in R. 4:4-2. It is believed the summons is not necessary provided the order to show cause has met the requirements of R. 4:4-2.

### Recommendation

After discussion, the Committee recommends referring this issue to the Civil Practice Committee for consideration.



## VI. Matters Held for Consideration

### A. **Proposed amendment to R. 1:38-7(e) - Confidential Personal Identifiers - Redaction of Required Personal Identifiers**

**Permitting unredacted social security numbers on qualified domestic relations orders**

The Committee has discussed a request to amend R. 1:38-7(e) so as to permit the entry of unredacted social security numbers on a qualified domestic relations order (QDRO), which are necessary to identify the parties who are subject to that QDRO. The Committee believes further discussion is necessary before making any recommendations. Therefore, the Committee reserves its recommendations of these issues for the next rules cycle.

### B. **Proposed amendment to R. 5:4-2(f) - Complaint - Affidavit or Certification of Insurance Coverage**

**Require only the last four digits of any policy number, group number, or I.D. number on the Certification of Insurance Coverage to protect privacy pursuant to R. 1:38-7(a)**

The Committee has discussed a request to amend R. 5:4-2(f) so as to require only the last four digits of any policy number, group number or I.D. number on the Certification of Insurance Coverage to protect privacy pursuant to R. 1:38-7(a). The Committee believes further discussion is necessary before making any recommendations. Therefore, the Committee reserves its recommendations of these issues for the next rules cycle.

**C. Proposal to Adopt a Family Part Rule to Apply R. 4:58 - Offer of Judgment - to Dissolution Matters**

**Adopt a Family Part Rule to apply R. 4:58 - Offer of Judgment - to Dissolution Matters**

The Committee has discussed a request to amend the Rules of Court so as to apply the offer of judgment rule, R. 4:58, to dissolution matters. Rule 4:58 was adopted to encourage the settlement of civil matters. The Committee believes further discussion is necessary before making any recommendations. Therefore, the Committee reserves its recommendations of these issues for the next rules cycle.

## Committee Members and Staff

Hon. Marie E. Lihotz, J.A.D. (**Chair**)  
Hon. Patricia B. Roe, P.J.F.P. (**Vice-Chair**)  
Lesley Renee Adams, Esq.  
Jane R. Altman, Esq.  
Ivette Ramos Alvarez, Esq.  
Janice T. Anderson, Esq.  
Lorraine M. Augostini, Esq.  
Patrick J. Boyle, Esq.  
Hon. John L. Call, P.J.F.P.  
Lauren Fleischer Carlton, Esq.  
Crystal L. Cochren, Esq.  
Donald C. Cofsky, Esq.  
Dale E. Console, Esq.  
Laurence J. Cutler, Esq.  
Lisa Ann Cybulski, Esq.  
Hon. William R. DeLorenzo, Jr., J.S.C.  
Jhanice V. Domingo, Esq.  
Hon. Madelin F. Einbinder, J.S.C.  
Norma R. Evans, Esq.  
Hon. Nan S. Famular, J.S.C.  
John E. Finnerty, Esq.  
Hon. Catherine M. Fitzpatrick, P.J.F.P.

Bonnie C. Frost, Esq.  
Hon. Robert J. Gilson, J.S.C.  
Monica C. Gural, Esq.  
Hon. Donald A. Kessler, J.S.C.  
Jennifer Lazor, Esq.  
Ronald G. Lieberman, Esq.  
Hon. Hany A. Mawla, J.S.C.  
Mary M. McManus-Smith, Esq.  
Hon. Bonnie J. Mizdol, P.J.F.P.  
Lynn Fontaine Newsome, Esq.  
Rachel Elkin, Esq. (t/a for Jeyanthi Rajaraman, Esq.)  
Hon. John R. Rauh, J.S.C.  
Richard A. Russell, Esq.  
Cynthia L. Samuels, Esq.  
Edward S. Snyder, Esq.  
Hon. Maureen P. Sogluizzo, P.J.F.P.  
Brendon Toner  
Andrea Beth White, Esq.  
Mary Beth Wood, Esq.  
Harry T. Cassidy, Asst. Director, AOC Staff  
David Tang, Esq., AOC Staff

Respectfully submitted,

Hon. Marie E. Lihotz, J.A.D., Chair

Dated: January 15, 2013

## **List of Attachments**

- A.** Financial Statement for Summary Support Actions (CN 11223)
- B.** Rules Appendix V - Family Case Information Statement
- C.** New Rules Appendix - Arbitration Questionnaire
- D.** New Rules Appendix - Agreement to Arbitrate (N.J.S.A. 2A:23A-1)
- E.** New Rules Appendix - Agreement to Arbitrate (N.J.S.A. 2A:23B-1)

# Attachment A

# FINANCIAL STATEMENT FOR SUMMARY SUPPORT ACTIONS

Attorney(s):  
Office Address and Tel. Nos.:  
Attorney for

_____	SUPERIOR COURT OF NEW JERSEY
Plaintiff	CHANCERY DIVISION – FAMILY PART
vs.	COUNTY OF _____
_____	DOCKET NO. _____
Defendant	FINANCIAL STATEMENT FOR
	SUMMARY SUPPORT ACTIONS

**PART A – PERSONAL INFORMATION:** *Provide the following information about yourself*

Name (last, first, middle): \_\_\_\_\_ Social Security No.: \_\_\_\_\_

Address: \_\_\_\_\_ Home Phone No.: \_\_\_\_\_

Employer: \_\_\_\_\_ Occupation: \_\_\_\_\_

**PART B – GROSS WEEKLY INCOME:** *Report your weekly income. Divide monthly by 4.3; bi-weekly by 2.*

1. Salary, wages, commission, bonuses and other payment for services performed:	\$
2. Income from operating a business minus ordinary and Necessary expenses:	\$
3. Social Security Retirement ( <i>over 62, green check</i> ):	\$
4. Social Security Disability ( <i>green check</i> ):	\$
5. Veterans' Administration pension:	\$
6. Worker's compensation:	\$
7. Other pensions, disability or retirement income:	\$

8. Unemployment compensation:	\$
9. Interest, dividends, annuities or other investment income:	\$
10. Income from the sale, trade or conversion of capital assets:	\$
11. Income from an estate of a decedent (a will):	\$
12. Alimony or separate maintenance from a previous marriage:	\$
13. Income from Trusts:	\$
14. Other income (specify):	\$
15. Other income (specify):	\$
<b>Total Gross Income</b> (add lines 1 through 15):	\$

**PART C – WEEKLY EXEMPTIONS:** Report the following deductions from your weekly income.

1. Number of tax exemptions claimed:	
2. Mandatory union dues:	\$
3. Mandatory retirement contributions:	\$
4. Health insurance premium (must include child(ren) named in the complaint):	\$
5. Alimony or child support orders paid (State: _____ Case No. _____):	\$

**PART D – OTHER DEPENDENT DEDUCTION:** Complete this section only if (1) you are legally responsible for supporting a child or children other than those named in the support complaint or application, (2) the child or children are living with you and (3) you are requesting credit for the amount spent on raising the other child or children when the support award is calculated. You are legally responsible for all children that are yours by birth or adoption. Answer the questions about the other parent of the child or children for whom you are requesting the credit (for example, your current spouse who is the biological mother/father of at least one of your children).

1. Number of other legal dependents (you must provide proof of the legal relationship):	
2. Number of tax exemption the parent of the other child(ren) claims:	
3. Weekly gross income of the parent of the other child(ren):	\$

4. Mandatory union dues of the parent of the other child(ren): \$
- 
5. Mandatory retirement contributions of the parent of the other child(ren): \$
- 
6. Health insurance premiums paid by the parent of the other child(ren) \$
- 
7. Alimony or child support orders paid by the parent of the other child(ren) \$
- 

**PART E – CREDIT FOR CHILD CARE EXPENSES:** *(Complete this section only if (1) you pay for work-related child care for a child or children for whom you and the other parent share a legal responsibility to support and (2) you are requesting a credit for these expenses when your support amount is calculated).*

1. Annual child care cost (if paid weekly divide by 52; If monthly divide by 4.3): \$
- 
2. Child care provider:
- 

**PART F – INCOME PAID TO YOUR CHILD(REN) IN YOUR NAME:** *(Complete if your child(ren) receive(s) regular payment from a government source in your name (e.g., social security, black lung or veteran’s benefits).*

1. Source of benefit(s):
- 
2. Weekly amount of benefits (attach verification): \$
- 

**PART G – HEALTH INSURANCE BENEFITS:** *Answer the following about your health insurance benefits.*

1. Health insurance provider: 2. Includes child(ren)  Yes  No
- 
3. Policy carrier: 4. Date coverage began:
- 

**PART H – CERTIFICATION**

I certify that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Date:

Signature:

**IMPORTANT:** You must attach a copy of your last federal tax form or your three most recent pay stubs to verify your income. Self-employed persons and business owners must attach a copy of the most recent federal tax forms for their business. If you are requesting a credit or deduction, you must attach proof of your expenses or obligations.



# Attachment B

**Appendix V  
Family Part Case Information Statement**

**This form and attachments are confidential pursuant to Rules 1:38-3(d)(1) and 5:5-2(f)**

Attorney(s):  
Office Address:  
Tel. No./Fax No.  
Attorney(s) for:

	Plaintiff,
vs.	
	Defendant.

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, FAMILY PART  
\_\_\_\_\_ COUNTY

DOCKET NO. \_\_\_\_\_  
CASE INFORMATION STATEMENT  
OF \_\_\_\_\_

**NOTICE:** This statement must be fully completed, filed and served, with all required attachments, in accordance with Court Rule 5:5-2 based upon the information available. In those cases where the Case Information Statement is required, it shall be filed within 20 days after the filing of the Answer or Appearance. Failure to file a Case Information Statement may result in the dismissal of a party's pleadings.

**INSTRUCTIONS:**

The Case Information Statement is a document which is filed with the Court setting forth the financial details of your case. The required information includes your income, your spouse's/partner's income, a budget of your joint life style expenses, a budget of your current life style expenses including the expenses of your children, if applicable, an itemization of the amounts which you may be paying in support for your spouse/partner or children if you are contributing to their support, a summary of the value of all assets referenced on page 8 –It is extremely important that the Case Information Statement be as accurate as possible because you are required to certify that the contents of the form are true. It helps establish your lifestyle which is an important component of alimony/spousal support and child support.

The monthly expenses must be reviewed and should be based on actual expenditures such as those shown from checkbook registers, bank statements or credit card statements from the past 24 months. The asset values should be taken, if possible, from actual appraisals or account statements. If the values are estimates, it should be clearly noted that they are estimates.

According to the Court Rules, you **must** update the Case Information Statement as your circumstances change. For example, if you move out of your residence and acquire your own apartment, you should file an Amended Case Information Statement showing your new rental and other living expenses.

It is also very important that you **attach** copies of relevant documents as required by the Case Information Statement, including your most recent **tax returns with W-2 forms, 1099s and your three (3) most recent paystubs.**

**Part A - Case Information:**

Date of Statement \_\_\_\_\_  
Date of Divorce, Dissolution of Civil Union or Termination of Domestic Partnership (post-Judgment matters) \_\_\_\_\_  
Date(s) of Prior Statement(s) \_\_\_\_\_  
Your Birthdate \_\_\_\_\_  
Birthdate of Other Party \_\_\_\_\_  
Date of Marriage, or entry into Civil Union or Domestic Partnership \_\_\_\_\_  
Date of Separation \_\_\_\_\_  
Date of Complaint \_\_\_\_\_  
Does an agreement exist between parties relative to any issue?  
If Yes, **ATTACH** a copy (if written) or a summary (if oral).

**Issues in Dispute:**

Cause of Action \_\_\_\_\_  
Custody \_\_\_\_\_  
Parenting Time \_\_\_\_\_  
Alimony \_\_\_\_\_  
Child Support \_\_\_\_\_  
Equitable Distribution \_\_\_\_\_  
Counsel Fees \_\_\_\_\_  
Other issues (be specific) \_\_\_\_\_  
 Yes  No.

1. Name and Addresses of Parties:

Your Name \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State/Zip \_\_\_\_\_  
Other Party's Name \_\_\_\_\_  
Street Address \_\_\_\_\_ City \_\_\_\_\_ State/Zip \_\_\_\_\_

2. Name, Address, Birthdate and Person with whom children reside:

*a. Child(ren) From This Relationship*

Child's Full Name	Address	Birthdate	Person's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*b. Child(ren) From Other Relationships*

Child's Full Name	Address	Birthdate	Person's Name
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**Part B - Miscellaneous Information:**

1. Information about Employment (Provide Name & Address of Business, if Self-employed)

Name of Employer/Business \_\_\_\_\_ Address \_\_\_\_\_  
Name of Employer/Business \_\_\_\_\_ Address \_\_\_\_\_

2. Do you have Insurance obtained through Employment/Business?  Yes  No. Type of Insurance:

Medical  Yes  No; Dental  Yes  No; Prescription Drug  Yes  No; Life  Yes  No; Disability  Yes  No  
Other (explain) \_\_\_\_\_

Is Insurance available through Employment/Business?  Yes  No

Explain: \_\_\_\_\_

3. **ATTACH** Affidavit of Insurance Coverage as required by Court Rule 5:4-2 (f) (See Part G)

4. Additional Identification:

Confidential Litigant Information Sheet: Filed  Yes  No

5. **ATTACH** a list of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Orders in effect.

**Part C. - Income Information:**

Complete this section for self and (if known) for other party.

**1. Last Year's Income**

	Yours	Joint	Other Party
1. Gross earned income last calendar (year)	\$ _____	\$ _____	\$ _____
2. Unearned income (same year)	\$ _____	\$ _____	\$ _____
3. Total Income Taxes paid on income (Fed., State, F.I.C.A., and S.U.I.). If Joint Return, use middle column.	\$ _____	\$ _____	\$ _____
4. Net income (1 + 2 - 3)	\$ _____	\$ _____	\$ _____

**ATTACH** to this form a corporate benefits statement as well as a statement of all fringe benefits of employment. (See Part G)

**ATTACH** a full and complete copy of last year's Federal and State Income Tax Returns. **ATTACH** W-2 statements, 1099's, Schedule C's, etc., to show total income plus a copy of the most recently filed Tax Returns. (See Part G)

Check if attached:  Federal Tax Return  State Tax Return  W-2  Other

**2. Present Earned Income and Expenses**

	Yours	Other Party (if known)
1. Average gross weekly income (based on last 3 pay periods – <b>ATTACH</b> pay stubs) Commissions and bonuses, etc., are: <input type="checkbox"/> included <input type="checkbox"/> not included* <input type="checkbox"/> not paid to you. * <b>ATTACH</b> details of basis thereof, including, but not limited to, percentage overrides, timing of payments, etc. <b>ATTACH</b> copies of last three statements of such bonuses, commissions, etc.	\$ _____	\$ _____
2. Deductions per week (check all types of withholdings): <input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> F.I.C.A. <input type="checkbox"/> S.U.I. <input type="checkbox"/> Other	\$ _____	\$ _____
3. Net average weekly income (1 - 2)	\$ _____	\$ _____

**3. Your Current Year-to-Date Earned Income**

Provide Dates: From \_\_\_\_\_ To \_\_\_\_\_

1. GROSS EARNED INCOME: \$ _____	Number of Weeks _____
2. TAX DEDUCTIONS: (Number of Dependents: _____)	
a. Federal Income Taxes	a. \$ _____
b. N.J. Income Taxes	b. \$ _____
c. Other State Income Taxes	c. \$ _____
d. F.I.C.A.	d. \$ _____
e. Medicare	e. \$ _____
f. S.U.I. / S.D.I.	f. \$ _____
g. Estimated tax payments in excess of withholding	g. \$ _____
h. _____	h. \$ _____
i. _____	i. \$ _____
TOTAL	\$ _____
3. GROSS INCOME NET OF TAXES \$	\$ _____

4. OTHER DEDUCTIONS

If mandatory, check box

- |                                      |             |                          |
|--------------------------------------|-------------|--------------------------|
| a. Hospitalization/Medical Insurance | a. \$ _____ | <input type="checkbox"/> |
| b. Life Insurance                    | b. \$ _____ | <input type="checkbox"/> |
| c. Union Dues                        | c. \$ _____ | <input type="checkbox"/> |
| d. 401(k) Plans                      | d. \$ _____ | <input type="checkbox"/> |
| e. Pension/Retirement Plans          | e. \$ _____ | <input type="checkbox"/> |
| f. Other Plans - specify _____       | f. \$ _____ | <input type="checkbox"/> |
| g. Charity                           | g. \$ _____ | <input type="checkbox"/> |
| h. Wage Execution                    | h. \$ _____ | <input type="checkbox"/> |
| i. Medical Reimbursement (flex fund) | i. \$ _____ | <input type="checkbox"/> |
| j. Other: _____                      | j. \$ _____ | <input type="checkbox"/> |
| TOTAL                                |             | \$ _____                 |

5. NET YEAR-TO-DATE EARNED INCOME: \$ \_\_\_\_\_
- NET AVERAGE EARNED INCOME PER MONTH: \$ \_\_\_\_\_
- NET AVERAGE EARNED INCOME PER WEEK \$ \_\_\_\_\_

**4. Your Year-to-Date Gross Unearned Income From All Sources**

(including, but not limited to, income from unemployment, disability and/or social security payments, interest, dividends, rental income and any other miscellaneous unearned income)

Source	How often paid	Year to date amount
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
TOTAL GROSS UNEARNED INCOME YEAR TO DATE		\$ _____

**5. Additional Information:**

- How often are you paid? \_\_\_\_\_
- What is your annual salary? \$ \_\_\_\_\_
- Have you received any raises in the current year?  Yes  No  
If yes, provide the date and the gross/net amount. \_\_\_\_\_
- Do you receive bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary?  Yes  No  
If yes, explain: \_\_\_\_\_
- Does your employer pay for or provide you with an automobile (lease or purchase), automobile expenses, gas, repairs, lodging and other.**  Yes  No  
**If yes, explain.:**  
\_\_\_\_\_
- Did you receive bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary during the current or immediate past 2 calendar years?**  Yes  No

**If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received:**

7. **Do you receive cash or distributions not otherwise listed?**  Yes  No  
**If yes, explain.** \_\_\_\_\_
8. Have you received income from overtime work during either the current or immediate past calendar year?  Yes  No  
If yes, explain. \_\_\_\_\_
9. **Have you been awarded or granted stock options, restricted stock or any other non-cash compensation or entitlement during the current or immediate past calendar year?**  Yes  No  
**If yes, explain.** \_\_\_\_\_
10. Have you received any other supplemental compensation during either the current or immediate past calendar year?  Yes  No  
If yes, state the date(s) of receipt and set forth the gross and net amounts received. Also describe the nature of any supplemental compensation received.  
\_\_\_\_\_  
\_\_\_\_\_
11. Have you received income from unemployment, disability and/or social security during either the current or immediate past calendar year?  Yes  No  
If yes, state the date(s) of receipt and set forth the gross and net amounts received.  
\_\_\_\_\_
12. List the names of the dependents you claim: \_\_\_\_\_  
\_\_\_\_\_
13. Are you paying or receiving any alimony?  Yes  No  
If yes, how much and from or to whom? \_\_\_\_\_  
\_\_\_\_\_
14. Are you paying or receiving any child support?  Yes  No  
If yes, list names of the children, the amount paid or received for each child and to whom paid or from whom received.  
\_\_\_\_\_  
\_\_\_\_\_
15. Is there a wage execution in connection with support?  Yes  No  
If yes explain. \_\_\_\_\_
16. **Does a Safe Deposit Box exist and if so, at which bank?**  Yes  No
17. Has a dependent child of yours received income from social security, SSI or other government program during either the current or immediate past calendar year?  Yes  No  
If yes, explain the basis and state the date(s) of receipt and set forth the gross and net amounts received  
\_\_\_\_\_  
\_\_\_\_\_
18. Explanation of Income or Other Information:  
\_\_\_\_\_  
\_\_\_\_\_

**Part D - Monthly Expenses (computed at 4.3 wks/mo.)**

Joint Marital or Civil Union Life Style should reflect standard of living established during marriage or civil union. Current expenses should reflect the current life style. Do not repeat those income deductions listed in Part C – 3.

	Joint Life Style Family, including _____ children	Current Life Style Yours and _____ children
<b>SCHEDULE A: SHELTER</b>		
<b>If Tenant:</b>		
Rent .....	\$ _____	\$ _____
Heat (if not furnished) .....	\$ _____	\$ _____
Electric & Gas (if not furnished) .....	\$ _____	\$ _____
Renter’s Insurance .....	\$ _____	\$ _____
Parking (at Apartment) .....	\$ _____	\$ _____
Other charges (Itemize) .....	\$ _____	\$ _____
<b>If Homeowner:</b>		
Mortgage .....	\$ _____	\$ _____
Real Estate Taxes (if not included w/mortgage payment) .....	\$ _____	\$ _____
Homeowners Ins. (if not included w/mortgage payment) .....	\$ _____	\$ _____
Other Mortgages or Home Equity Loans .....	\$ _____	\$ _____
Heat (unless Electric or Gas) .....	\$ _____	\$ _____
Electric & Gas .....	\$ _____	\$ _____
Water & Sewer .....	\$ _____	\$ _____
Garbage Removal .....	\$ _____	\$ _____
Snow Removal .....	\$ _____	\$ _____
Lawn Care .....	\$ _____	\$ _____
<b><u>Maintenance/Repairs</u></b> .....	\$ _____	\$ _____
<b><u>Condo, Co-op or Association Fees</u></b> .....	\$ _____	\$ _____
Other Charges (Itemize) .....	\$ _____	\$ _____
<b>Tenant or Homeowner:</b>		
Telephone .....	\$ _____	\$ _____
Mobile/Cellular Telephone .....	\$ _____	\$ _____
Service Contracts on Equipment .....	\$ _____	\$ _____
Cable TV .....	\$ _____	\$ _____
Plumber/Electrician .....	\$ _____	\$ _____
Equipment & Furnishings .....	\$ _____	\$ _____
Internet Charges .....	\$ _____	\$ _____
<b><u>Home Security System</u></b> .....	\$ _____	\$ _____
Other (itemize) .....	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____
<b>SCHEDULE B: TRANSPORTATION</b>		
Auto Payment .....	\$ _____	\$ _____
Auto Insurance (number of vehicles: _____) .....	\$ _____	\$ _____
Registration, License .....	\$ _____	\$ _____
Maintenance .....	\$ _____	\$ _____
Fuel and Oil .....	\$ _____	\$ _____
Commuting Expenses .....	\$ _____	\$ _____
Other Charges (Itemize) .....	\$ _____	\$ _____
<b>TOTAL</b>	\$ _____	\$ _____

SCHEDULE C: PERSONAL

	Joint Life Style Family, including _____ children	Current Life Style Yours and _____ children
Food at Home & household supplies .....	\$ _____	\$ _____
Prescription Drugs .....	\$ _____	\$ _____
Non-prescription drugs, cosmetics, toiletries & sundries .....	\$ _____	\$ _____
School Lunch .....	\$ _____	\$ _____
Restaurants .....	\$ _____	\$ _____
Clothing .....	\$ _____	\$ _____
Dry Cleaning, Commercial Laundry .....	\$ _____	\$ _____
Hair Care .....	\$ _____	\$ _____
Domestic Help .....	\$ _____	\$ _____
Medical (exclusive of psychiatric)* .....	\$ _____	\$ _____
Eye Care* .....	\$ _____	\$ _____
Psychiatric/psychological/counseling* .....	\$ _____	\$ _____
Dental (exclusive of Orthodontic)* .....	\$ _____	\$ _____
Orthodontic* .....	\$ _____	\$ _____
Medical Insurance (hospital, etc.)* .....	\$ _____	\$ _____
Club Dues and Memberships .....	\$ _____	\$ _____
Sports and Hobbies .....	\$ _____	\$ _____
Camps .....	\$ _____	\$ _____
Vacations .....	\$ _____	\$ _____
Children's Private School Costs .....	\$ _____	\$ _____
Parent's Educational Costs .....	\$ _____	\$ _____
Children's Lessons (dancing, music, sports, etc.) .....	\$ _____	\$ _____
Babysitting .....	\$ _____	\$ _____
Day-Care Expenses .....	\$ _____	\$ _____
Entertainment .....	\$ _____	\$ _____
Alcohol and Tobacco .....	\$ _____	\$ _____
Newspapers and Periodicals .....	\$ _____	\$ _____
Gifts .....	\$ _____	\$ _____
Contributions .....	\$ _____	\$ _____
Payments to Non-Child Dependents .....	\$ _____	\$ _____
Prior Existing Support Obligations this family/other families (specify) .....	\$ _____	\$ _____
Tax Reserve (not listed elsewhere) .....	\$ _____	\$ _____
Life Insurance .....	\$ _____	\$ _____
Savings/Investment .....	\$ _____	\$ _____
Debt Service (from page 7) (not listed elsewhere) .....	\$ _____	\$ _____
Parenting Time Expenses .....	\$ _____	\$ _____
Professional Expenses (other than this proceeding) .....	\$ _____	\$ _____
<b><u>Pet Care and Expenses</u></b> .....	\$ _____	\$ _____
Other (specify) .....	\$ _____	\$ _____

\*unreimbursed only

	TOTAL	\$ _____	\$ _____
Please Note: If you are paying expenses for a spouse or civil union partner and/or children not reflected in this budget, attach a schedule of such payments.			
Schedule A: Shelter .....		\$ _____	\$ _____
Schedule B: Transportation .....		\$ _____	\$ _____
Schedule C: Personal .....		\$ _____	\$ _____
		\$ _____	\$ _____
Grand Totals .....		\$ _____	\$ _____



**Part E - Balance Sheet of All Family Assets and Liabilities**

Description	Title to Property (P, D, J) <sup>1</sup>	Statement of Assets		Date of Evaluation Mo./Day/ Yr.
		Date of purchase/acquisition. If claim that asset is exempt, state reason and value of what is claimed to be exempt	Value \$ Put * after exempt	
1. Real Property				
2. Bank Accounts, CD's	<b><u>[identify institution and type of account(s)]</u></b>			
3. Vehicles				
4. Tangible Personal Property				
5. Stocks, Bonds and Securities	<b><u>[identify institution and type of account(s)]</u></b>			
6. Pension, Profit Sharing, Retirement Plan(s), 401(k)s, etc.	<b><u>[identify each institution or employer]</u></b>			
7. IRAs				
8. Businesses, Partnerships, Professional Practices				
9. Life Insurance (cash surrender value)				
10. Loans Receivable				
11. Other (specify)				
			TOTAL GROSS ASSETS:	\$ _____
			TOTAL SUBJECT TO EQUITABLE DISTRIBUTION:	\$ _____
			TOTAL NOT SUBJECT TO EQUITABLE DISTRIBUTION:	\$ _____

<sup>1</sup> P = Plaintiff; D = Defendant; J = Joint

**Statement of Liabilities**

Description	Name of Responsible Party (P, D, J)	If you contend liability should not be shared, state reason	Monthly Payment	Total Owed	Date
1. Real Estate Mortgages					
2. Other Long Term Debts					
3. Revolving Charges					
4. Other Short Term Debts					
5. Contingent Liabilities					

TOTAL GROSS LIABILITIES: \$ \_\_\_\_\_  
(excluding contingent liabilities)

NET WORTH: \$ \_\_\_\_\_  
(subject to equitable distribution)

**TOTAL SUBJECT TO EQUITABLE DISTRIBUTION: \$ \_\_\_\_\_**  
**TOTAL NOT SUBJECT TO EQUITABLE DISTRIBUTION: \$ \_\_\_\_\_**

**Part F - - Statement of Special Problems**

Provide a Brief Narrative Statement of Any Special Problems Involving This Case: As example, state if the matter involves complex valuation problems (such as for a closely held business) or special medical problems of any family member, etc.

**Part G - Required Attachments**

**Check If You Have Attached the Following Required Documents**

- 1. A full and complete copy of your last federal and state income tax returns with all schedules and attachments. (Part C-1)
- 2. Your last calendar year’s W-2 statements, 1099’s, K-1 statements.
- 3. Your three most recent pay stubs.
- 4. Bonus information including, but not limited to, percentage overrides, timing of payments, etc.; the last three statements of such bonuses, commissions, etc. (Part C)
- 5. Your most recent corporate benefit statement or a summary thereof showing the nature, amount and status of retirement plans, savings plans, income deferral plans, insurance benefits, etc. (Part C)
- 6. Affidavit of Insurance Coverage as required by Court Rule 5:4-2(f) (Part B-3)
- 7. List of all prior/pending family actions involving support, custody or Domestic Violence, with the Docket Number, County, State and the disposition reached. Attach copies of all existing Orders in effect. (Part B-5)
- 8. Attach details of each wage execution (Part C-5)
- 9. Schedule of payments made for a spouse or civil union partner and/or children not reflected in Part D.
- 10. Any agreements between the parties.
- 11. An Appendix IX Child Support Guideline Worksheet, as applicable, based upon available information.

**I certify that, other than in this form and its attachments, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).**

**I certify that the foregoing information contained herein is true. I am aware that if any of the foregoing information contained therein is willfully false, I am subject to punishment.**

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

# Attachment C

**APPENDIX \_\_\_\_\_**

The following questionnaire shall be reviewed and executed by any party to a Family Part matter prior to execution of an agreement or consent order submitting their family law matter dispute to arbitration.

**ARBITRATION QUESTIONNAIRE FORM**

1. Are you aware that you are entitled to have a trial before a Judge in the Superior Court of New Jersey to resolve all of the outstanding issues in conflict between you and the other party, pertaining to your finances and/or the custody and parenting time for your children?	Yes <input type="checkbox"/> No <input type="checkbox"/>
2. Are you aware that by proceeding with arbitration you are waiving your right to have the Court render a decision regarding your finances and/or the custody and parenting time for your children, except in certain limited circumstances as are set forth in the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3. Are you aware that had you proceeded with trial before a Judge in the Superior Court of New Jersey, you would have had the right to present the Court with all relevant evidence capable of being considered pursuant to the Rules of Evidence? Do you understand by agreeing to arbitration that you are also waiving your right to appeal to the Appellate Division except in limited circumstances?	Yes <input type="checkbox"/> No <input type="checkbox"/>
4. Are you aware that by proceeding with arbitration you will be presenting your case to an arbitrator who will then render a decision regarding your finances and/or the custody and parenting time for your children?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Do you understand that by proceeding with arbitration and agreeing to the terms and conditions for the arbitration set forth in the arbitration agreement attached hereto, you are waiving your right to have a Judge in the Superior Court of New Jersey decide the issues pertaining to your finances and/or the custody and parenting time for your children, except in certain limited circumstances, as set forth in the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
6. Have you read the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
7. Have you had the opportunity to discuss each and every term contained in the arbitration agreement with your attorney?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8. Did your attorney answer all of your questions to your satisfaction?	Yes <input type="checkbox"/> No <input type="checkbox"/>
9. Do you understand that the arbitration will be governed by the terms of the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10. Do you understand that by signing the arbitration agreement you are empowering the arbitrator, instead of a Judge, with the authority to decide issues pertaining to your finances and/or the custody and parenting time for your children, in accordance with the terms set forth in the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11. Do you understand that decisions rendered by the arbitrator cannot be challenged, vacated, amended or changed except under certain limited circumstances as set forth in the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>

12. Do you understand that the arbitrator's decision regarding finances cannot be challenged, vacated, amended or changed unless you are able to prove the occurrence or non-occurrence of factors that are expressly set forth in the arbitration agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
13. Do you understand that if you seek to challenge, vacate, amend or change the arbitrator's decision you will be required to present a factual basis based on the factors identified in the arbitration agreement justifying your request and that you will bear the burden of proof?	Yes <input type="checkbox"/> No <input type="checkbox"/>
14. Do you understand that you may need to hire a Court stenographer, for which you will bear the cost, to transcribe the proceeding or that the Arbitrator will have to create a detailed record for review through some other agreed upon methodology?	Yes <input type="checkbox"/> No <input type="checkbox"/>
15. Have you had ample time to reflect upon, and consider, the implications of your decision to arbitrate this case rather than presenting it to a Judge?	Yes <input type="checkbox"/> No <input type="checkbox"/>
16. Have you entered into the arbitration agreement freely and voluntarily without coercion or duress being exercised upon you?	Yes <input type="checkbox"/> No <input type="checkbox"/>
17. Are you under the influence of any substances, such as drugs, medication or alcohol that may affect your ability to understand or voluntarily consent to this agreement?	Yes <input type="checkbox"/> No <input type="checkbox"/>
18. Do you believe that the arbitration process is a reasonable way to resolve the outstanding issues in dispute between you and the other party?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Please answer the following questions only if custody and/or parenting time is an issue:	
19. Do you understand that an award pertaining to custody or parenting time can be vacated if either you or the other party can establish that it threatens or poses harm to the child?	Yes <input type="checkbox"/> No <input type="checkbox"/>
20. Do you understand that you will not be able to challenge, vacate, modify, or amend the arbitrator's decision solely because you think the best interests of your children are better served by a different decision or because you disagree with it?	Yes <input type="checkbox"/> No <input type="checkbox"/>
21. Do you understand that if you challenge the arbitrator's decision with respect to custody or parenting time you will need to present a showing of actual or apparent harm to your child or children to obtain a hearing before a Judge, and that simply disagreeing with the amount of time the Arbitrator awards will not ordinarily constitute a showing of harm?	Yes <input type="checkbox"/> No <input type="checkbox"/>
22. Do you understand that a Court will only consider a change or modification of the arbitrator's decision after the Court determines that there would be harm to your child or children in the event the arbitrator's award was followed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
23. Do you understand that only if the Court finds the arbitrator's determination poses harm to the child or children, will it then make a determination following a Plenary Hearing about what is in the best interests of your child or children?	Yes <input type="checkbox"/> No <input type="checkbox"/>
24. Do you understand that all documentary evidence and a record of testimony presented during the arbitration proceeding pertaining to the custody and parenting time of your children must be maintained and kept?	Yes <input type="checkbox"/> No <input type="checkbox"/>
25. Do you understand that the arbitrator cannot simply make an award granting custody to one or both of you jointly and allocating time between you without giving reasons grounded in law and the facts of your case?	Yes <input type="checkbox"/> No <input type="checkbox"/>

I certify that I have read each and every question in this questionnaire and that my attorney has reviewed these questions with me and explained them to me to my satisfaction. I further certify that my attorney has answered any questions that I have with respect to this questionnaire.

If I do not have an attorney, I certify that I fully understand the questions and that my answers are given voluntarily, without coercion or duress and that I was free of the influence of narcotics, drugs or alcohol. If I do not have counsel, I certify that I know I have the right to consult with counsel before executing this questionnaire and that I knowingly have waived my right to do so.

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

Sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC or New Jersey Attorney

# Attachment D



**APPENDIX \_\_\_\_\_**

**AGREEMENT TO ARBITRATE  
PURSUANT TO N.J.S.A. 2A:23A-1, et seq.**

**WHEREAS**, the parties have been made fully aware of their rights not to enter into arbitration and to have all or portions of their case heard to completion by the Superior Court of New Jersey, Chancery Division, Family Part;

**WHEREAS** instead, the parties, after full and complete discussions with their counsel, have elected to arbitrate pursuant to The New Jersey Alternative Procedure for Dispute Resolution Act (APDRA), *N.J.S.A. 2A:23A-1*, et seq., except that the provisions of *N.J.S.A. 2A:23A-20* to *-30* shall not apply;

**WHEREAS**, by executing this Agreement, the parties also acknowledge having received a copy of this Agreement, that they have read same before executing it, that they have discussed all terms with counsel, and that they have given independent reflection and judgment to the terms and provisions of this Agreement before executing it and agree to be bound by same.

**WHEREAS**, the parties agree to the terms hereof voluntarily of their own free will, without coercion or duress and free of the influence of intoxicants or narcotics.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises hereinafter contained, the parties agree as follows:

**Consent to Arbitrate Scope of Arbitration and Law Applicable**

1. The recitation clauses above are made a part of this Agreement as essential terms.
2. This Agreement shall constitute a waiver by the parties of the right to trial, appeal or review by the court, except as specifically provided in this Agreement or as provided under

*N.J.S.A. 2A:23A-1*, et seq. This waiver is given freely, voluntarily and is done without coercion or duress.

3. Neither party shall have the right or power to revoke this Agreement without the consent in writing of the other party.

4. To the extent that the provisions of *N.J.S.A. 2A:23A-1*, et seq., may be waived, the parties acknowledge that they intend the provisions of this Agreement to govern the Arbitration proceeding if there is a conflict between the statute and this Agreement. The use of the term "Arbitrator" herein is analogous to the term "Umpire" as used within the APDRA.

5. ***[Choose one of the following:]***

(A) All issues that could have been raised and adjudicated by the court in the New Jersey Superior Court, Family Part – both *pendente lite* and final – shall be subject to the jurisdiction of and determination by the arbitrator pursuant to the terms and procedures of this Agreement. The arbitrator shall determine whether an issue or dispute is within the scope of his/her jurisdiction.

***[If elected]*** The parties exclude from arbitration the following issues:

***[list issues]***

(B) The parties elect to arbitrate the following issues:

***[list issues]***

6. The issues may be modified (expanded or narrowed) upon the mutual written Agreement of the parties.

**Stay of Court Action**

7. Upon entry of this Order the matter shall be  assigned / reassigned to the Arbitration Track pursuant to R. 5:1-4 [rule recommendation proposed in this report].

**Arbitrators and Disclosures by Arbitrators**

8. The parties appoint \_\_\_\_\_ as the Arbitrator [*Multiple arbitrators may also be appointed*]. Each party has executed the Arbitrator's retainer agreement, a copy of which is attached hereto, and incorporated herein. Both parties agree to be bound by and comply with the provisions of that retainer agreement with respect to their financial and other obligations to the Arbitrator. A dispute as to the reasonableness of the Arbitrator's fees shall be determined in the Superior Court of New Jersey, Family Part, in a summary fashion pursuant to the New Jersey Rules of Court and shall be completed expeditiously so the arbitration proceeding is not delayed.

9. The parties confirm that prior to accepting appointment, the Arbitrator shall execute the Conflict Disclosure Form which is attached hereto and shall have a continuing obligation to disclose any known conflict or conflicts which may subsequently arise. By consenting to this Agreement, the parties hereby waive any right to object to the designation of the Arbitrator based on any disclosures made by the Arbitrator as of the date of this Agreement. Failure to make such disclosure may be grounds to vacate the award. In the event the Arbitrator makes full disclosure and a party fails to object within a reasonable time, the party receiving such information shall be held to have waived any right to the designation of the Arbitrator on the grounds so revealed.

10. If the Arbitrator shall refuse or be unable to serve, then the parties shall agree, in writing, upon a substitute Arbitrator. If the parties are unable to agree in writing to a substitute

Arbitrator within 14 days of notice of the previously agreed-upon Arbitrator's refusal or inability to serve, then they shall each submit three names to the court and the court shall select the Arbitrator. Any Arbitrator so appointed by the court shall serve with the same powers pursuant to this Consent Order as if the Arbitrator were specifically designated by the parties. *[The parties may wish to avoid the possibility that an unacceptable alternate is appointed by the court by designating a successor Arbitrator or Arbitrators].*

11. The parties confirm that the Arbitrator has not served, and shall not serve, in another capacity in the matter being arbitrated.

#### **Immunity of Arbitrator and Fees and Costs of Arbitration**

12. The Arbitrator shall be immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity. If any party commences a civil action against the Arbitrator arising from the services of the Arbitrator in this arbitration, the court may award to the Arbitrator reasonable attorney's fees and other reasonable expenses of litigation.

#### **Procedure and Discovery**

13. Each party shall be entitled to initiate and to complete discovery which shall be conducted in accordance with the New Jersey Rules of Court. Any and all disputes concerning discovery shall be submitted by letter to the Arbitrator for resolution. The other party shall have the right to reply and there may be oral argument on dates to be set by the Arbitrator. The parties reserve their respective rights to conduct further discovery which may include, but is not limited to, completion of expert reports, depositions, interrogatories and responses to document requests. During the pendency of the Arbitration, the Arbitrator shall determine all disputes regarding

discovery and may at his/her discretion, conduct Case Management Conferences regarding the scope and timing of discovery, the payment of fees and costs, the scheduling of the arbitration proceeding and submission of required documents, the manner of recordation, if any, and any other issues the parties or Arbitrator deem appropriate. The Arbitrator shall memorialize the results of the conference in a written interim award.

14. With respect to issues of child custody and parenting time, all documentary evidence and testimony shall be recorded. As to all other issues, no record need be made of the arbitration proceeding unless either party desires to do so, which election must be communicated to the Arbitrator in writing, or the Arbitrator so directs. The responsibility of the costs of any such transcription or recording shall be determined by the Arbitrator. ***[Parties need to consider the effect of waiving the record on their rights to seek review]***

15. Except as provided herein, the New Jersey Rules of Court shall govern discovery except as expressly modified by the parties pursuant to this Agreement or in a subsequent writing.

16. When more than one Arbitrator has been appointed to hear the matter, the hearing shall be conducted by all the Arbitrators, but a majority may determine any question and render a final award. The power of the Arbitrators may be exercised by a majority of them unless otherwise provided by this Agreement. If, during the course of the hearing, an Arbitrator for any reason ceases to act, the remaining Arbitrators appointed to act may continue with the hearing and determination of the controversy.

17. The Arbitrator may require the attendance of any person as a witness and the production of any book or written instrument or document. The fees for the attendance of the witness shall be those allowed witnesses in a civil action.

18. Subpoenas shall issue in the name of and be signed by the Arbitrator, and shall be directed to the person therein named and served in the same manner as a subpoena to testify before a court of record. If a person subpoenaed to testify refuses or neglects to obey a subpoena, the court, upon summary proceeding, may compel his/her attendance before the Arbitrator or hold the person in contempt as if the person had failed to respond to a subpoena issued by the court.

19. The New Jersey Rules of Evidence [*or another jurisdiction's rules, e.g., the Federal Rules of Evidence*] shall apply to this arbitration unless the parties agree they should be relaxed. Notwithstanding the foregoing, all New Jersey statutes and common law rules relating to privilege shall remain in effect.

20. If at any time the Arbitrator is of the opinion that evidence by impartial experts would be of assistance, the Arbitrator may direct that expert evidence be obtained. The fees and expenses of expert witnesses shall be paid by the parties as directed by the Arbitrator.

21. The Arbitrator shall schedule proceedings for the convenience of the parties, witnesses and counsel and reasonable notice shall be provided. At all times, the parties shall first attempt to agree upon available dates for scheduling any proceedings necessary in connection with the Arbitration but the Arbitrator shall have authority to make scheduling decisions if the parties do not agree.

22. With the written consent of the parties, the Arbitrator, prior to and after commencement of a formal arbitration hearing, may schedule conferences with the parties and their experts in an attempt to resolve all or some of the issues. Such conferences shall not be a basis for disqualification of the arbitrator or vacation of any award.

23. The Arbitrator may determine the controversy upon the evidence produced, notwithstanding the failure of a party duly notified to appear.

24. The parties are entitled to be heard, to present evidence material to the controversy, to cross-examine witnesses appearing at the hearing, and to be represented by counsel.

25. All evidence introduced at the hearing shall be maintained by the Arbitrator until the award has been confirmed.

### **Complete Authority of Arbitrator**

26. The Arbitrator shall have full jurisdiction to provide all relief and to determine all claims and disputes arising in the arbitration, whether *pendente lite* or final, including whether a particular issue or dispute is covered by this Consent Order and whether there was fraud in the inducement of the entire agreement but not with regard to a claim that an alternative resolution clause was procured by fraud.

27. All requests for *pendente lite*, interim or relief ancillary to the claims and disputes covered by this Agreement shall be addressed to the Arbitrator. If the Arbitrator is unavailable and immediate, irreparable harm will result, the parties may apply to the court. ***[If the parties do not wish by agreement to have two different forums in which to seek relief, they should consider and agree upon a provision for an emergent application in the Arbitration context if the Arbitrator is not available and also a definition of "unavailability." As phrased, "unavailability" is not facially defined so inevitably there will be litigation disputes about what "unavailability" means and the level of harm that justifies bypassing the Arbitrator. The***

*parties should consider such additional language such as will carefully define these issues in the Arbitration Agreement].*

28. A party may seek *pendente lite* relief or interim relief, to the same extent as such relief could be requested in the Superior Court, Family Part, by notifying the Arbitrator and all other parties of the request by facsimile, email, and/or overnight delivery of a written notification of request (in the form of a motion with supporting certification(s) in accordance with the New Jersey Rules of Court for *pendente lite* relief, unless the parties otherwise agree. Each party shall have an opportunity to respond in accordance with the time table set forth in the New Jersey Rules of Court, unless expanded by the Arbitrator or expanded by the consent of the parties, and the party seeking relief will have an opportunity to reply in accordance with the times tables set forth in the New Jersey Rules of Court, unless said time tables are expanded by the Arbitrator or agreed to be expanded by the parties. The Arbitrator shall notify the parties of the date, time, and place of the hearing for *pendente lite* relief.

29. Any determination reached before a final award shall be considered *pendente lite* as provided for in this Agreement. The parties may request that the ruling be incorporated into an award and may request findings of facts and conclusions of law.

### **Limited Intermediate Review**

30. A party shall not have the right to apply to the court for interim relief from a *pendente lite* ruling of the Arbitrator, except that a party may request the following from the court:

- (a) an order confirming and enforcing the Arbitrator's interim award;



(b) review or modification of any *pendente lite* ruling governing child custody or parenting time upon a showing that the *pendente lite* ruling will result in harm to a child.

(c) relief pursuant to *N.J.S.A. 2A:23A-7*.

Unless otherwise agreed in writing, an application to the court for review of a *pendente lite* award of the Arbitrator shall be in accordance with R. 5:1-5(b) [**rule recommendation proposed in this report**].

31. The arbitration proceeding shall not be abated, stayed or delayed by the application for an intermediate review unless the Arbitrator or the court, in exceptional cases or circumstances, so rules.

### **Determination in Writing**

32. The award in an arbitration proceeding shall be in writing and signed by the Arbitrator. The award shall be delivered to each party who has appeared in the proceeding. The award shall state findings of all relevant material facts and make all applicable determinations of law.

33. An award shall be made within \_\_\_\_\_ (days/months). [***select appropriate time frame by consent of the parties***]. The Arbitrator, with the consent of the parties, may extend the time for making the award.

34. The Arbitrator shall make the award on all issues submitted for arbitration in accordance with the applicable principles of substantive law of New Jersey in effect at the time of the issuance of the award [***The entire purpose of the APDRA requires the Arbitrator to apply the law in the State of New Jersey. If the parties want to deviate from that requirement, use***

*the other form under the other statute.]* The Arbitrator shall make specific findings of fact as to each applicable statutory factor and rule of court.

**Limited Rights of Review**

**A. Application to the Arbitrator**

35. Within 20 days after service of the Arbitrator's award, the parties may make application to the Arbitrator to modify the award on the following grounds:

(a) There was a miscalculation of figures or a mistake in the description of any person, thing or property referred to in the award; or

(b) if the Arbitrator made an award based on a matter not submitted to them and the award may be corrected without affecting the merits of the controversy ;

(c) The award is imperfect in a matter of form, not affecting the merits of the controversy; or

(d) The rights of the party applying for modification were prejudiced by the umpire erroneously applying law to the issues and facts presented.

36. Written notice of the application shall be served upon the other parties to the proceeding and the Arbitrator. Written objection to the application shall be served on the Arbitrator and other parties to the proceeding within 10 days of receipt of the notice/application.

37. The Arbitrator shall dispose of any application made under this section in writing, signed by him, within 30 days after either written objection to the application has been served or the time for serving an objection has expired, whichever is earlier.

38. There shall be no further jurisdiction of the Arbitrator to consider any further applications of either party, absent written consent of the parties to expand the scope of arbitration.

## **B. Applications to the Court**

39. After the expiration of 45 days following service of the award on the parties, or 30 days after the service of a modified award, the court shall confirm the arbitration award unless application has been made within that time to vacate, modify or correct the award.

(a) The court shall vacate the award if the Court finds the rights of a party were prejudiced by:

- (1) Corruption, fraud or misconduct in procuring the award;
- (2) Partiality of an Arbitrator appointed as neutral;
- (3) In making the award, the Arbitrator exceeded their power or so imperfectly executed that power that a final and definite award was not made;
- (4) Failure to follow the procedures set forth in this Consent Order, unless the party applying to vacate the award continued with the proceeding with notice of the defect and without objection;
- (5) The Arbitrator committed prejudicial error by erroneously applying the law to the issues and facts presented; or
- (6) An award involving custody, parenting time or child support threatens harm to a child.

(b) The Court shall modify the award if:

- (1) There was a miscalculation of figures or a mistake in the description of any person, thing or property referred to in the award;

(2) The Arbitrator made an award based on a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted;

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy;

(4) The rights of the party applying for modification were prejudiced by the Arbitrator erroneously applying the law to the issues and facts presented.

**Applications to the Appellate Division**

40. There shall be no further appeals unless allowed by law.

---

Arbitrator

---

Attorney for Plaintiff

---

Attorney for Defendant

---

Plaintiff

---

Defendant

\_\_\_\_\_, )  
Plaintiff, )  
v. ) ARBITRATOR DISCLOSURE FORM  
)  
\_\_\_\_\_, )  
Defendant. )

Prior to accepting an appointment to serve as an arbitrator in this matter, the undersigned, after making a reasonable inquiry, hereby makes the following disclosures:

1. I have no financial or personal interest in the outcome of this arbitration proceeding.
  
2. I have no existing or past financial, business, professional, family or social relationships which are likely to affect my impartiality in this arbitration or which might reasonably create an appearance of partiality or bias except as follows:
  
3. I have no past or existing relationship as described in paragraph number 2 above with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, an identified witness, or other arbitrators except as follows:

4. I am aware of no past or existing relationships as described in paragraph number 2 above involving my spouse, minor children residing in my household or my current employer, partners or business associates except as follows:

5. I have made reasonable efforts to inform myself of any interests or relationships as described herein.

6. I understand that the duty to disclose is a continuing duty which requires me to disclose at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered and my failure to do so may be grounds to vacate the award.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_

---

Arbitrator

# Attachment E

**APPENDIX \_\_\_\_\_**

**AGREEMENT TO ARBITRATE  
PURSUANT TO N.J.S.A. 2A:23B-1, et seq.**

**WHEREAS**, the parties have been made fully aware of their rights not to enter into arbitration and to have all or portions of their case heard to completion by the Superior Court of New Jersey, Chancery Division, Family Part;

**WHEREAS** instead, the parties, after full and complete discussions with their counsel, have elected to arbitrate pursuant to N.J.S.A. 2A:23B-1, et seq.;

**WHEREAS**, by executing this Agreement, the parties also acknowledge having received a copy of this Agreement, that they have read same before executing it, that they have discussed all terms with counsel, and that they have given independent reflection and judgment to the terms and provisions of this Agreement before executing it and agree to be bound by same.

**WHEREAS**, the parties agree to the terms hereof voluntarily of their own free will, without coercion or duress and free of the influence of intoxicants or narcotics.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises hereinafter contained, the parties agree as follows:

**Consent to Arbitrate Scope of Arbitration and Law Applicable**

1. The recitation clauses of this Agreement are incorporated herein as essential terms.
2. This Agreement shall constitute a waiver by the parties of the right to trial, appeal or review by the court, except as specifically provided in this Agreement. This waiver is given freely, voluntarily and is done without coercion or duress.



3. Neither party shall have the right or power to revoke this Agreement without the consent in writing of the other party.

4. To the extent that the provisions of N.J.S.A. 2A:23B-1, et seq., may be waived the parties acknowledge that they intend the provisions of this Agreement to govern the Arbitration proceeding if there is a conflict between the statute and this Agreement.

5. [Choose one of the following:]

(A) All issues that could have been raised and adjudicated by the Court in the New Jersey Superior Court, Family Part – both *pendente lite* and final – shall be subject to the jurisdiction of and determination by the arbitrator pursuant to the terms and procedures of this Agreement. The arbitrator shall determine whether an issue or dispute is within the scope of his/her jurisdiction.

The parties exclude from arbitration the following issues:

(list issues or state "none")

(B) The parties elect to arbitrate the following issues:

(list issues)

6. The issues may be modified (expanded or narrowed) upon the mutual written Agreement of the parties.

7. [Optional under N.J.S.A. 2A:23B-4(c)] The parties agree to expand the scope of review as follows:

[Parties may expand the scope of review in the trial court beyond the bases set forth in N.J.S.A. 2A:23B-23 and -24 (e.g., the award shall be subject to review based upon substantial evidence or failure to apply the law, review de novo, etc.). Parties *may not* confer jurisdiction for direct appeal to the Appellate Division.]

8. The Arbitrator shall have jurisdiction to decide the issues set forth in Paragraph 5, as may be modified in accordance with paragraph 6; whether a condition precedent to the arbitration has been fulfilled and whether a contract to arbitrate is enforceable but not whether an agreement to arbitrate exists or a controversy is subject to arbitration which shall be decided by the court.

9. [Optional] All determinations of the Arbitrator shall be in writing and state findings of fact and conclusions of law.

10. The Arbitrator  shall /  shall not apply the law in the State of New Jersey.

### **Stay of Court Action**

11. Upon entry of this Agreement the matter shall be [re]assigned to the Arbitration Track pursuant to R. 5:1-4 [**rule recommendation proposed in this report**].

### **Selection of Arbitrator**

12. The parties appoint \_\_\_\_\_ as the Arbitrator. (*Multiple arbitrators may also be appointed*). Each party has executed the Arbitrator's retainer agreement, a copy of which is attached hereto, and incorporated herein. Both parties agree to be bound by and comply with the provisions of that retainer agreement with respect to their financial and other obligations to the Arbitrator. A dispute as to the reasonableness of the Arbitrator's fees shall be determined in the Superior Court of New Jersey Family Part, in a summary fashion pursuant to the Rules and shall be completed expeditiously so the arbitration proceeding is not delayed.

13. The parties confirm that prior to accepting appointment, the Arbitrator(s) shall execute the Conflict Disclosure Form which is attached hereto and shall have a continuing

obligation to disclose any known conflict. By consenting to this Agreement the parties hereby waive any right to object to the designation of the Arbitrator based on any disclosures made by the Arbitrator as of the date of this Agreement. Failure to make such disclosure may be grounds to vacate the award. In the event the Arbitrator makes full disclosure and a party fails to object within a reasonable time, the party receiving such information shall be held to have waived any right to the designation of the Arbitrator on the grounds so revealed.

14. [In lieu of the provisions of N.J.S.A. 23B-11] If the Arbitrator shall refuse or be unable to serve, then the parties shall agree, in writing, upon a substitute Arbitrator. If the parties are unable to agree in writing to a substitute Arbitrator within 14 days of notice of the previously agreed-upon Arbitrator's refusal or inability to serve, then they shall each submit three names to the court, and the court shall select the Arbitrator. Any Arbitrator so appointed by the court shall serve with the same powers pursuant to this Consent Order as if the Arbitrator were specifically designated by the parties. The substitute Arbitrator is bound by the arbitration agreement and shall execute same.

15. The parties confirm that the Arbitrator has not served, and shall not serve, in another capacity in the matter being arbitrated.

#### **Immunity of Arbitrator and Fees and Costs of Arbitration**

16. The Arbitrator shall be immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity. If any party commences a civil action against the Arbitrator arising from the services of the Arbitrator in this arbitration, the court may award to the Arbitrator reasonable attorney's fees and other reasonable expenses of litigation.

## **Discovery**

17. Each party shall be entitled to initiate and to complete discovery which shall be conducted in accordance with the New Jersey Rules of Court. Any and all disputes concerning discovery shall be submitted by letter to the Arbitrator for resolution. The other party shall have the right to reply and there may be oral argument on dates to be set by the Arbitrator. The parties reserve their respective rights to conduct further discovery which may include, but is not limited to, completion of expert reports, depositions, interrogatories and responses to document requests. During the pendency of the Arbitration, the Arbitrator shall determine all disputes regarding discovery and may at his/her discretion, conduct Case Management Conferences regarding the scope and timing of discovery, the payment of fees and costs, the scheduling of the arbitration proceeding and submission of required documents, the manner of recordation, if any, and any other issues the parties or Arbitrator deem appropriate. The Arbitrator shall memorialize the results of the conference in a written interim award.

18. With respect to issues of child custody and parenting time, all documentary evidence and testimony shall be recorded. As to all other issues, no record need be made of the arbitration proceeding unless either party desires to do so or the Arbitrator so directs. The responsibility of the costs of any such transcription or recording shall be determined by the Arbitrator.

## **Arbitration Proceedings**

19. When more than one Arbitrator is appointed, all of the Arbitrators shall sit at the hearing of the case unless, by written consent, all parties agree to a lesser number.

20. The Arbitrator may require the attendance of any person as a witness and the production of any book or written instrument or document. The fees for the attendance of the witness shall be those allowed witnesses in a civil action.

21. Subpoenas shall issue in the name of and be signed by the Arbitrator, and shall be directed to the person therein named and served in accordance with R. 1:9-3. If a person subpoenaed to testify refuses or neglects to obey a subpoena, the court, upon summary proceeding, may compel his/her attendance before the Arbitrator or hold the person in contempt as if the person had failed to respond to a subpoena issued by the court.

22. The New Jersey Rules of Evidence [or another jurisdiction's rules, e.g., the Federal Rules of Evidence] shall apply to this arbitration unless the parties agree they should be relaxed. Notwithstanding the foregoing, all statutes and common law rules relating to privilege shall remain in effect.

23. If at any time the Arbitrator is of the opinion that evidence by impartial experts would be of assistance, the Arbitrator may direct that expert evidence be obtained. The fees and expenses of expert witnesses shall be paid by the parties as directed by the Arbitrator.

24. The Arbitrator shall schedule proceedings for the convenience of the parties, witnesses and counsel and reasonable notice shall be provided. At all times, the parties shall first attempt to agree upon available dates for scheduling any proceedings necessary in connection with the Arbitration but the Arbitrator shall have authority to make scheduling decisions if the parties do not agree.

25. With the written consent of the parties, the Arbitrator, prior to and after commencement of a formal arbitration hearing, may schedule conferences with the parties and

their experts in an attempt to resolve all or some of the issues. Such conferences shall not be a basis for disqualification of the arbitrator or vacation of any award.

26. The Arbitrator may determine the controversy upon the evidence produced, notwithstanding the failure of a party duly notified to appear.

27. The parties are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing, and to be represented by counsel.

28. When more than one Arbitrator has been designated to hear the matter, the hearing shall be conducted by all the Arbitrators, but a majority may determine any question and render a final award. The power of the Arbitrators may be exercised by a majority of them unless otherwise provided by this Agreement. If, during the course of the hearing, an Arbitrator for any reason ceases to act, [the remaining Arbitrators appointed to act shall continue with the hearing and determination of the controversy] [a substitute Arbitrator shall be immediately appointed pursuant to paragraph 14.

29. All evidence introduced at the hearing shall be maintained by the Arbitrator until the award has been confirmed.

**Pendente Lite/Interim Relief**

30. By executing this Agreement, the parties consent to the Arbitrator's authority to immediately act on any and all *pendente lite* or interim relief applications.

31. A party may seek *pendente lite* relief or interim relief, to the same extent as such relief could be requested in the Superior Court, Family Part, by notifying the Arbitrator and all other parties of the request by facsimile, email, and/or overnight delivery of a written notification

of request (in the form of a motion with supporting certification(s)) in accordance with the Rules of Court for *pendente lite* relief, unless the parties otherwise agree. Each party shall have an opportunity to respond in accordance with the time table set forth in the Rules of Court, unless expanded by the Arbitrator or expanded by the consent of the parties, and the party seeking relief will have an opportunity to reply in accordance with the times tables set forth in the Rules of Court, unless said time tables are expanded by the Arbitrator or agreed to be expanded by the parties. The Arbitrator shall notify the parties of the date, time, and place of the hearing for *pendente lite* relief.

32. Any determination reached before a final award shall be considered *pendente lite* as provided for in this Agreement. The parties may request that the ruling be incorporated into an award and may request findings of facts and conclusions of law.

### **Review of Pendente Lite Ruling of Arbitrator**

33. A party has no right to seek judicial modification from a *pendente lite* ruling of the Arbitrator, except that a party may request from the court:

- (a) An order confirming and enforcing the Arbitrator's award granting *pendente lite* relief;
- (b) review or modification of any *pendente lite* ruling governing child custody or parenting time upon a showing that the *pendente lite* ruling is harmful to a child.
- (c) Review for the reasons set forth in Paragraph 41 of this Agreement.

34. An application to the court for review or confirmation of a *pendente lite* ruling of the Arbitrator shall be in accordance with R. 5:1-5(b), unless otherwise agreed.

35. The arbitration proceeding shall not be abated, stayed or delayed by the application for a *pendente lite* review unless the Arbitrator or the Court so determines.

### **Final Determination**

36. The final award in an arbitration proceeding also shall be in writing and signed by the Arbitrator. The award shall be delivered to each party who has appeared in the proceeding.

37. An award shall be made within \_\_\_\_ (days/months) following the close of evidence or submission of summations whichever is later. The Arbitrator, with the consent of the parties, may extend the time for making the award.

### **Correction, Modification, Clarification or Reconsideration of Final Award by Arbitrator**

38. Within 20 days after delivery of the final award to the attorneys for the parties or a self-represented party, the Arbitrator may, on written application of a party, modify or correct the award if:

(a) there was an evident mathematical miscalculation or an evident mistake in the description of a person, thing or property referred to in the award;

(b) the award is imperfect in a matter of form not affecting the merits of the decision on the claims submitted;

(c) the Arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding;

(d) to clarify the award; or



(e) [optional] to reconsider any portion of the award based upon mistake of fact [or law but only if the parties have directed the Arbitrator to apply the law] or any factor set forth in R. 4:49-2 or 4:50-1.

Written notice of the application shall be served upon the other parties to the proceeding and the Arbitrator. Written objection to the application shall be served on the Arbitrator and other parties to the proceeding within 14 days of receipt of the notice. Any reply to the objection shall be served on the Arbitrator and the parties to the proceeding within seven (7) days of receipt of the response to the objection.

39. The Arbitrator shall make a determination as to any application made under this section in writing, signed by the Arbitrator, within 30 days after either reply to the written objection to the application has been served or the time for serving an objection or reply has expired, whichever is earlier.

40. There shall be no further jurisdiction of the Arbitrator to consider any further applications of either party, absent written consent of the parties to expand the scope of arbitration.

### **Application to Court**

41. A party who participated in an arbitration proceeding may apply to the Superior Court, Chancery Division, Family Part, within 120 days after the final award is served upon the applicant, or following the service of a corrected or modified award apply to the Court for the following relief and

(A) The court shall modify or correct the award if:

(1) the court finds the reasons set forth in 38(a) or (b); or

(2) the arbitrator made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the award upon the claims submitted.

(B) The court shall vacate the award where:

(1) the award was procured by corruption, fraud, or other undue means;

(2) the court finds evident partiality by an arbitrator; corruption by an arbitrator; or misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(3) the Arbitrator refused to postpone the hearing upon a showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing in a manner so as to substantially prejudice the rights of a party to the arbitration proceeding;

(4) the arbitrator exceeded the arbitrator's powers;

(5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising an objection at the beginning of the arbitration hearing;

(6) the arbitration was conducted without proper notice of the initiation of the arbitration so as to substantially prejudice the rights of a party to the proceeding;

(7) in matters involving custody, parenting time or child support, the court finds that the award threatens harm to a child; or

(8) [if parties have agreed to expand the scope of review] the award is not supported by substantial evidence or the Arbitrator has incorrectly applied the law [or other standard of review] provided the parties have provided for such review.

42. Responses to the application shall be served and filed within 20 days and replies shall be filed and served within 10 days.

### **Confirmation of Award**

43. The court shall confirm the arbitration award upon summary application of either party made subsequent to the expiration of the period to move for vacation correction, supplementation, clarification or reconsideration of the award pursuant to paragraph 41 of this Agreement. An application to confirm the award may be made in response to an application to vacate, correct, supplement or modify the award. An application to the Arbitrator pursuant to paragraph 38 of this Agreement shall toll the time to move for confirmation of the award. The remaining time shall again begin to run from the date of the entry of an arbitration award disposing of such application.

### **Appeals**

44. An appeal may be taken to the Superior Court, Appellate Division from a determination of the Superior Court, Chancery Division, Family Part, in accordance with N.J.S.A. 2A:23B-28 on the following grounds:

- (a) An order denying an application to compel arbitration;
- (b) An order granting an application to stay an arbitration proceeding;

(c) An order granting or denying confirmation of an award following application made pursuant to Paragraph 41 of this Agreement;

(d) An order vacating an award without directing a rehearing; or

(e) An order modifying or correcting an award.

**Death or Incompetency of Party**

45. In the event a party dies after execution of this Agreement, the arbitration shall continue with the decedent's Estate substituted as a party.

46. In the event a custodian of the property or a guardian of a party to this Agreement is appointed, the arbitration shall continue with to the custodian or guardian substituted as a party.

\_\_\_\_\_  
Attorney for Plaintiff

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Arbitrator

\_\_\_\_\_, )  
Plaintiff, )  
v. ) ARBITRATOR DISCLOSURE FORM  
)  
\_\_\_\_\_, )  
Defendant. )

Prior to accepting an appointment to serve as an arbitrator in this matter, the undersigned, after making a reasonable inquiry, hereby makes the following disclosures:

1. I have no financial or personal interest in the outcome of this arbitration proceeding.
  
2. I have no existing or past financial, business, professional, family or social relationships which are likely to affect my impartiality in this arbitration or which might reasonably create an appearance of partiality or bias except as follows:
  
3. I have no past or existing relationship as described in paragraph number 2 above with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, an identified witness, or other arbitrators except as follows:

4. I am aware of no past or existing relationships as described in paragraph number 2 above involving my spouse, minor children residing in my household or my current employer, partners or business associates except as follows:

5. I have made reasonable efforts to inform myself of any interests or relationships as described herein.

6. I understand that the duty to disclose is a continuing duty which requires me to disclose at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered and my failure to do so may be grounds to vacate the award.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_

---

Arbitrator