

NOTICE TO THE BAR

Rule 4:11-4 (“Testimony for Use in Foreign Jurisdictions”) — Explanation of the Amendments to the Rule and Guidance on Submissions to the Clerk for Issuance of Subpoenas

As part of its July 22, 2014 omnibus rule amendment order, the Supreme Court adopted amendments to Rule 4:11-4 (“Testimony for Use in Foreign Jurisdictions”) to incorporate provisions of the Uniform Interstate Deposition and Discovery Act. Those amendments were effective September 1, 2014. This Notice provides further detail as to two of the amendments.

- Rule 4:11-4(a) – Paragraph (a) has been amended to clarify that an ex parte petition designated as “petition pursuant to R. 4:11-4(a)” may be filed with the Superior Court, Law Division for an order authorizing the issuance of a subpoena for the deposition of a person in New Jersey and/or for the production of documents for use in connection with proceedings in federal District Court in the United States, the District of Columbia, Puerto Rico, United States Virgin Islands, the territories of the United States or in connection with proceedings in any foreign country.
- Rule 4:11-4(b) – Paragraph (b) is a new paragraph that provides the procedure for conducting a deposition of a person in New Jersey and/or for the production of documents for use in connection with proceedings in a foreign state. For purposes of this rule, “foreign state” means any state within the United States other than New Jersey, *i.e.*, one of the other forty-nine states. It does not mean a foreign country. Specifically, an attorney in a foreign state or a party in a foreign state may:

(a) Submit to an attorney authorized to practice in New Jersey both a foreign subpoena that contains the phrase “For the Issuance of a New Jersey Subpoena under New Jersey Rule 4:11-4(b)” and a New Jersey subpoena that complies with subparagraph (b)(3); the attorney authorized to practice in New Jersey will then issue the New Jersey subpoena in accordance with this rule; no subpoena is filed with the court; OR

(b) Submit to the Law Division of Superior Court both a foreign subpoena that contains the phrase “For the Issuance of a New Jersey Subpoena under New Jersey *Rule* 4:11-4(b)” and a New Jersey subpoena that complies with subparagraph (b)(3), for issuance of a subpoena by the Deputy Clerk of Superior Court in the county in which the deponent

resides, is employed, or transacts business; the subpoenas shall be filed in accordance with Rule 1:5-6(b).

Due to current limitations of the Automated Case Management System (ACMS), the Deputy Clerks of the Superior Court cannot at present issue subpoenas pursuant to paragraph (b) of the Rule. Until further notice, parties seeking issuance of subpoenas by the Deputy Clerks should submit the foreign subpoenas and New Jersey subpoenas with the appropriate fees to the Clerk of the Superior Court at the following address:

Clerk of the Superior Court
Richard J. Hughes Justice Complex
25 W. Market Street, 6th Floor North Wing
P.O. Box 971
Trenton, NJ 08625-0971

Questions regarding this Notice may be directed to Kevin M. Wolfe, Assistant Director, Civil Practice Division, Administrative Office of the Courts, by telephone at 609-292-8470 or by e-mail at kevin.wolfe@judiciary.state.nj.us.

/s/ GLENN A. GRANT

Glenn A. Grant, J.A.D.
Acting Administrative Director

Dated: December 2, 2014