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For further information contact
Winnie Comfort, Administrative Office of the Courts
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(609) 292-9580

New Jersey Supreme Court Relaxes Rule, Eases Legal Process for Families of Victims

- [New Jersey Supreme Court Order](#)
- [Memorandum From Judge Richard J. Williams to the Surrogates](#)
- [Forms for obtaining a Declaration of Death for a Person Missing in Connection with the Terrorist Attacks on September 11, 2001](#) (Acrobat PDF format)
- [Full Set of Forms for Use by Surrogates, Attorneys, and others Providing Assistance to Litigants](#) (Adobe Acrobat PDF format)

New Jersey's Supreme Court has ordered certain Rules Governing the Courts of the State of New Jersey, "*relaxed and supplemented for any matters arising out of the catastrophic events of September 11, 2001.*" The order, which is effective immediately and until further notice, sets into motion a streamlined process and eliminates filing fees for families who are trying to get their loved ones' financial affairs in order, but who have no death certificates because the victims of the attack have not been found.

The relaxed rules allow the Superior Courts and the County Surrogates in all 21 counties to act in concert to provide a one-stop approach for what is normally a multi-step process: obtaining a "declaration of death" for a missing person in Superior Court, then handling matters related to the administration of an estate at the Surrogate's Court. The Superior Court's declaration of death is needed by families to present when submitting such items as life insurance and pension claims and to present to the Surrogates' Courts to proceed with probating wills and appointing an executor or administrator of an estate.

"The Supreme Court recognizes the concern of the Surrogates for providing critical assistance for victims' families. Because Surrogates can provide face-to-face contact with families of victims, they will be an invaluable resource for families who already have been through so much, said the Courts' Administrative Director Judge Richard J. Williams.

The order of the Supreme Court, signed by Chief Justice Deborah T. Poritz late yesterday, permits the action for a declaration of death and an action for estate administration to proceed together, rather than the usual process of multi-step, consecutive actions. The order also waives the filing fees for these actions. At the discretion of the trial judge, the order relaxes the time frames normally required for the Superior Court to process the request for action and relaxes requirements for publication of certain legal documents in newspapers. At the discretion of the trial judge, the order also relaxes the need for oral testimony from loved ones, out of concern that providing such testimony may be traumatic for families. Each county will have one judge designated to handle all of the matters coming before the Superior Court under the relaxed rules for victims' families.

"Surrogates by nature are familiar with handling sensitive situations and therefore are available to assist the families at this time," said Hunterdon County Surrogate Susan Hoffman, president of the Surrogates Section of the Constitutional Officers Association.

To offer additional assistance to families, the Judiciary has developed forms for those who wish to represent themselves to file for a declaration of death and other matters of the estate. The forms package will also include the documents necessary to request that the Superior Court appoint a trustee for a missing person's estate to permit immediate access to certain assets needed by the family.

The forms will be available in Surrogates' Courts, where they will offer whatever individual assistance possible on a personalized basis to assist the families of the victims. The forms also will be available on the Judiciary's Web site at www.judiciary.state.nj.us

Supreme Court of New Jersey

IT IS ORDERED that pursuant to N.J. Const. Art. VI, §2, par. 3, effective immediately and until further order the following Rules Governing the Courts of the State of New Jersey are relaxed and supplemented for any matters arising out of the catastrophic events of September 11, 2001:

(a) Rule 4:93-2 ("Declaration of Death"), to permit the probate judge in a declaration of death action to exercise discretion in setting an earlier return date for the order to show cause than the thirty days provided for by the Rule;

(b) Rule 4:93-2 ("Declaration of Death"), to permit the waiver of the requirement for newspaper publication of the notice of order to show cause;

(c) Rule 4:93-4 ("Hearing"), to permit oral testimony to be waived in the discretion of the judge in declaration of death actions when the verified complaint and supporting affidavits or other documents clearly establish the cause of action; if oral testimony is required, the judge may exercise discretion to permit such testimony to be given telephonically; and

(d) Rule 4:93-5 ("Letters Issued"), to permit applications for the issuance of letters of administration upon the estate of the absentee, for the probate of that person's will, or for the appointment of a testamentary guardian to be made with the initial pleading seeking a declaration of death.

IT IS FURTHER ORDERED that pursuant to N.J.S.A. 22A:2-23 ("Waiver of Collection of Fee"), the fees for proceedings in any matters filed pursuant to the above Rule relaxations are hereby waived.

For the Court,
Deborah T. Poritz
Chief Justice

Dated: September 24, 2001

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