

# **SUPREME COURT OF NEW JERSEY**

It is ORDERED that the attached amendments to the Rules Governing the Courts of the State of New Jersey are adopted to be effective September 1, 2011.

For the Court,

A handwritten signature in black ink, appearing to read "Stuart Palmer", written over a horizontal line.

Chief Justice

Dated: July 21, 2011

**The Rules and Appendices Amended and Adopted by this Order Are as Follows:**

1:1-2	5:10-7 (new)
1:5-6	5:10-8 (renumbered)
1:40-5	5:10-9 (renumbered)
1:40-6	5:10-10 (renumbered)
1:40-12	5:10-11 (renumbered)
2:2-3	5:10-12 (renumbered)
2:9-6	5:10-13 (new)
3:4-2	5:10-14 (new)
3:6-6	5:10-15 (new)
3:13-3	5:10-16 (new)
3:19-1	5:10A (new)
3:21-4	5:11
3:22-8	7:7-7
3:22-13 (new)	7:7-11
4:101-1	7:9-1
4:101-5	7:14-3
5:1-4	Appendix V
5:2-1	Appendix XIII (deleted)
5:3-5	Appendix XIV (deleted)
5:3-7	Appendix XVI (deleted)
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5:4-4	Appendix XXIV (deleted)
5:5-1	Appendix XXVI
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5:10-5 (new)	
5:10-6 (new)	

1:1-2. Construction and Relaxation; References to Marriage, Spouse and Related Terms

(a) ... no change.

(b) As used in Part I through Part VIII of these rules and appendices, references to "marriage," "husband," "wife," "spouse," "family," "immediate family," "dependent," "next of kin," "widow," "widower," "widowed," or another word that in a specific context denotes a marital or spousal relationship shall include a civil union, as established by N.J.S.A. 37:1-28 to -36, and a [registered] domestic partnership, as established by N.J.S.A. 26:8A-1 to -13, and the persons in those relationships.

Note: Source -- R.R. 1:27A, 3:1-2, 3:11-9, 4:1-2, 4:121, 6:1-1 (second sentence), 6:1-2, 8:1-2. Amended June 20, 1979 to be effective July 1, 1979; amended July 5, 2000 to be effective September 5, 2000; caption amended, former text designated as paragraph (a), and new paragraph (b) adopted July 16, 2009 to be effective September 1, 2009; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

1:5-6. Filing

(a) ... no change

(b) What Constitutes Filing With the Court. Except as otherwise provided by R. 1:6-4 (motion papers), R. 1:6-5 (briefs), R. 4:42-1(e) (orders and judgments), and R. 5:5-4 (motions in Family actions), a paper is filed with the trial court if the original is filed as follows:

(1) ... no change

(2) ... no change

(3) ... no change

(4) In actions in the Chancery Division, Family Part, with the deputy clerk of the Superior Court in the county of venue if the action is [for] a dissolution action [of marriage], with the Surrogate of the county of venue if the action is for adoption, and in all other actions, with the Family Division Manager in the county of venue, as designee of the deputy clerk of the Superior Court;

(5) ... no change

(6) ... no change

(7) ... no change

The foregoing notwithstanding, in any case the judge or, at the judge's chambers, a member of the staff may accept papers for filing if they show the filing date and the judge's name and office. The filed papers shall be forwarded forthwith to the appropriate office.

(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 [in Appendix XXIV] 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; or

(D) . . . no change.

(E) . . . no change.

(2) . . . no change.

(3) . . . no change.

(4) . . . no change.

(d) . . . no change

(e) . . . 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.

1:40-5. Mediation in Family Part Matters

(a) Mediation of Custody and Parenting Time Actions ... no change

(b) Mediation of Economic Aspects of Dissolution Actions. [Divorce.]

(1) Referral to ESP [MESP]. The CDR program of each vicinage shall include a [post-Matrimonial] post-Early Settlement Panel [(MESP)] (ESP) program for the mediation of the economic aspects of dissolution actions [divorce] or for the conduct of a [post-MESP] post-ESP alternate Complementary Dispute Resolution (CDR) event consistent with the provisions of this rule and R. 5:5-6. However, no matter shall be referred to mediation if a temporary or final restraining order is in effect in the matter pursuant to the Prevention of Domestic Violence Act (*N.J.S.A. 2C:25-17 et seq.*).

(2) Designation of Mediator of Economic Aspects of Family Law Matters. ... no change

(3) Exchange of Information. ... no change

(4) Timing of Referral. Parties shall be referred to economic mediation or other alternate CDR event following the unsuccessful attempt to resolve their issues through ESP [MESP]. At the conclusion of the ESP [MESP] process, parties shall be directed to confer with appropriate court staff to expedite the referral to economic mediation in accordance with the following procedures:

A. ... no change

B. ... no change.

C. ... no change

D. ... no change

E. ... no change

F. ... no change

G. ... no change

H. ... no change

I. ... no change

(5) Adjournments. ... no change

Note: Adopted July 14, 1992 to be effective September 1, 1992; new paragraph (c) adopted January 21, 1999 to be effective April 5, 1999; caption and paragraphs (a) and (b) amended July 5, 2000 to be effective September 5, 2000; caption amended, former paragraphs (a), (b), and (c) redesignated as paragraphs (a)(1), (a)(2), and (a)(3), new paragraph (a) caption adopted, and new paragraph (b) adopted July 27, 2006 to be effective September 1, 2006; paragraph (a)(2) amended July 31, 2007 to be effective September 1, 2007; paragraph (b) amended and redesignated as paragraph (b)(1), caption for paragraph (b)(1) added, and new paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) adopted July 16, 2009 to be effective September 1, 2009; paragraph (b) caption amended, subparagraph (b)(1) caption and text amended, and subparagraph (b)(4) amended July 21, 2011 to be effective September 1, 2011.



1:40-6. Mediation of Civil, Probate, and General Equity Matters

The CDR program of each vicinage shall include mediation of civil, probate, and general equity matters, pursuant to rules and guidelines approved by the Supreme Court.

(a) ... no change

(b) Designation of Mediator. [If the parties have not selected the mediator prior to entry of the mediation referral order, the court shall in its referral order designate a mediator from the court-approved roster. The parties may, however, within 14 days after entry of the mediation referral order stipulate in writing to the designation of a different mediator. Within that fourteen-day period, the stipulation shall be filed with the Civil CDR Coordinator and a copy thereof served upon the mediator designated by the mediation referral order. A mediator designated by such stipulation shall comply with all terms and conditions set forth in the mediation referral order.] Within 14 days after entry of the mediation referral order, the parties may select a mediator, who may, but need not, be listed on the court's Roster of Civil Mediators. Lead plaintiff's counsel must in writing provide the CDR Point Person in the county, as well as the individual designated by the court in the mediation referral order, with the name of the selected mediator. If the parties do not timely select a mediator, the individual designated by the court in the mediation referral order shall serve. All mediators on the court's roster as well as those not on the roster, whether party-selected or court-designated, shall comply with the terms and conditions set forth in the mediation referral order.

(c) ... no change

(d) ... no change

(e) ... no change

(f) ... no change

(g) ... no change

Note: Adopted July 5, 2000 to be effective September 5, 2000 (and former Rule 1:40-6 redesignated as Rule 1:40-7); paragraph (b) amended July 12, 2002 to be effective September 3, 2002; paragraphs (e) and (g) amended July 27, 2006 to be effective September 1, 2006; paragraph (a) amended September 11, 2006 to be effective immediately; paragraph (e) amended July 31, 2007 to be effective September 1, 2007; paragraph (d) amended July 9, 2008 to be effective September 1, 2008; paragraph (e) amended July 16, 2009 to be effective September 1, 2009; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

1:40-12. Mediators and Arbitrators in Court-Annexed Programs

(a) ... no change

(b) Mediator Training Requirements.

(1) ... no change

(2) Continuing Training. Commencing in the year following the completion of the basic training course or the waiver thereof, all mediators shall annually attend four hours of continuing education and shall file with the Administrative Office of the Courts or the Assignment Judge, as appropriate, an annual certification of compliance. To meet the requirement, this continuing education shall include instruction in ethical issues associated with mediation practice, program guidelines and/or case management and should cover at least one of the following: (A) reinforcing and enhancing mediation and negotiation concepts and skills, (B) [ethical issues associated with mediation practice, or (C)] other professional matters related to mediation. Mediators who have been approved to serve as mentors under subsection (b)(1) of this Rule may apply the time spent mentoring to satisfy this requirement.

(3) ... no change

(4) Mediation Course Content-Family Part Actions. The 40-hour classroom course for family action mediators shall include basic mediation skills as well as at least 22 hours of specialized family mediation training, which should cover family and child development, family law, [divorce] dissolution procedures, family finances, and community resources. In special circumstances and at the request of the Assignment Judge, the Administrative Office of the Courts may temporarily approve for a one-year period an applicant who has not yet completed the specialized family mediation training, provided the applicant has at least three years of experience as a mediator or a combination of mediation experience and service in

the Family Part, has co-mediated in a CDR program with an experienced family mediator, and certifies to the intention to complete the specialized training within one year following the temporary approval. Economic mediators in family disputes: (1) shall have completed 40 hours of training in family mediation in accordance with this rule, or (2) shall have completed a minimum of 25 hours of mediation training with a commitment to complete the remaining 15 hours of specialized training within one year following their addition to the roster of mediators consistent with the requirements of this subparagraph.

(5) ... no change

(6) ... no change.

(c) ... no change

(d) ... no change

Note: Adopted July 14, 1992 as Rule 1:40-10 to be effective September 1, 1992; caption amended, former text redesignated as paragraphs (a) and (b), paragraphs (a)3.1 and (b)4.1 amended June 28, 1996 to be effective September 1, 1996; redesignated as Rule 1:40-12, caption amended and first sentence deleted, paragraph (a)1.1 amended and redesignated as paragraph (a)(1), paragraph (a)2.1 amended and redesignated as paragraph (a)(2), paragraph (a)2.2 amended and redesignated as paragraph (b)(5), new paragraphs (a)(3) and (a)(4) adopted, paragraph (a)3.1 redesignated as paragraph (a)(5), paragraph (a)3.2 amended and incorporated in paragraph (b)(1), paragraph (a)4.1 amended and redesignated as paragraph (b)(6), paragraph (b)1.1 amended and redesignated as paragraph (b)(1), paragraphs (b)2.1 and (b)3.1 amended and redesignated as paragraphs (b)(2) and (b)(3), paragraph (b)4.1 redesignated as paragraph (b)(4) with caption amended, paragraph (b)5.1 amended and redesignated as paragraph (b)(7) with caption amended, new section (c) adopted, and paragraph (b)5.1(d) amended and redesignated as new section (d) with caption amended July 5, 2000 to be effective September 5, 2000; paragraphs (a)(3) and (b)(1) amended July 12, 2002 to be effective September 3, 2002; paragraphs (b)(1), (b)(3), and (c) amended July 28, 2004 to be effective September 1, 2004; caption amended and paragraph (a) (4) caption and text amended June 15, 2007 to be effective September 1, 2007; new paragraph (a)(6) caption and text adopted, paragraph (b)(1) amended, paragraph (b)(2) deleted, paragraphs (b)(3) and (b)(4) redesignated as paragraphs (b)(2) and (b)(3), paragraph (b)(5) amended and redesignated as paragraph (b)(4), and paragraphs (b)(6) and (b)(7) redesignated as paragraphs (b)(5) and (b)(6) July 16, 2009 to be effective September 1, 2009; subparagraphs (b)(2) and (b)(4) amended July 21, 2011 to be effective September 1, 2011.

2:2-3. Appeals to the Appellate Division from Final Judgments, Decisions, Actions and from Rules; Tax Court

(a) As of Right. Except as otherwise provided by R. 2:2-1(a)(3) (final judgments appealable directly to the Supreme Court), and except for appeals from a denial by the State Police of an application to make a gun purchase under a previously issued gun purchaser card, which appeals shall be taken to the designated gun permit judge in the vicinage, appeals may be taken to the Appellate Division as of right

(1) from final judgments of the Superior Court trial divisions, or the judges thereof sitting as statutory agents; the Tax Court; and in summary contempt proceedings in all trial courts except municipal courts;

(2) to review final decisions or actions of any state administrative agency or officer, and to review the validity of any rule promulgated by such agency or officer excepting matters prescribed by R. 8:2 (tax matters) and matters governed by R. 4:74-8 (Wage Collection Section appeals), except that review pursuant to this subparagraph shall not be maintainable so long as there is available a right of review before any administrative agency or officer, unless the interest of justice requires otherwise;

(3) in such cases as are provided by law.

Final judgments of a court, for appeal purposes, shall also include those referred to by R. 3:28(f) (order enrolling defendant into the pretrial intervention program over the objection of the prosecutor), R. 3:26-3 (material witness order), R. 4:42-2 (certification of interlocutory order), R. 4:53-1 (order appointing statutory or liquidating receiver), R. 5:8-6 (final custody determination in bifurcated [matrimonial] family action), and R. [5:10-6] 5:10-9 (order on preliminary hearing in adoption action). An order granting or denying a motion to extend the time to file a notice of

tort claim pursuant to *N.J.S.A.* 59:8-9, whether entered in the cause or by a separate action, and an order compelling arbitration, whether the action is dismissed or stayed, shall also be deemed a final judgment of the court for appeal purposes.

(b) By Leave. ... no change

Note: Source — *R.R.* 2:2-1(a) (b) (c) (d) (f) (g), 2:2-4, 2:12-1, 3:10-11, 4:88-7, 4:88-8(a) (first sentence), 4:88-10 (first sentence), 4:88-14, 6:3-11(a). Paragraph (a) amended July 14, 1972 to be effective September 5, 1972; paragraph (b) amended November 27, 1974 to be effective April 1, 1975; caption and paragraph (a) amended June 20, 1979 to be effective July 1, 1979; paragraph (a) amended July 8, 1980 to be effective July 15, 1980; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(1) amended July 22, 1983 to be effective September 12, 1983; paragraph (a) amended December 20, 1983 to be effective December 31, 1983; paragraph (b) amended July 26, 1984 to be effective September 10, 1984; paragraph (a) amended July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraph (a) amended July 27, 2006 to be effective September 1, 2006; paragraph (a)(3) amended July 23, 2010 to be effective September 1, 2010; paragraph (a) amended July 21, 2011 to be effective September 1, 2011.

2:9-6. Supersedeas Bond; Exceptions

(a) . . . no change.

(b) . . . no change

(c) Bail Forfeiture Appeals. Simultaneous with the filing of notice of appeal in respect of a bail forfeiture judgment by or on behalf of an insurer, the appellant shall deposit the full amount of the judgment with the Clerk of the Superior Court in cash or by certified, cashiers or bank check. The court for good cause shown may allow the posting of a supersedeas bond in lieu of the cash deposit. Good cause, however, shall not be satisfied by an application to extend the time to locate the defendant or to stay payment of a forfeited bond, entry of a judgment, or preclusion from the bail registry maintained by the Superior Court. The notice of appeal in a bail forfeiture appeal shall be accompanied by proof of compliance with this rule. Such proof shall be provided by affidavit, unless the court otherwise orders.

Source-R.R. 1:4-8(a) (c); paragraph (a) amended and paragraph (c) adopted July 28, 2004 to be effective September 1, 2004; paragraph (c) amended July 21, 2011 to be effective September 1, 2011.

3:4-2. First Appearance After Filing Complaint

(a) . . . no change.

(b) . . . no change.

(c) . . . no change.

(d) . . . no change.

(e) Waiver of First Appearance By Written Statement. Unless otherwise ordered by the court, a defendant who is represented by an attorney and is not incarcerated may waive the first appearance by filing, at or before the time fixed for the first appearance, a written statement in a form prescribed by the Administrative Director of the Courts, signed by the attorney, certifying that the defendant has:

(1) received a copy of the complaint and has read it or the attorney has read it and explained it to the defendant;

(2) understands the substance of the charge;

(3) been informed of the right to remain silent and that any statement may be used against the defendant;

(4) been informed that there is a pretrial intervention program and where and how an application to it may be made; and

(5) been informed of the right to have a hearing as to probable cause, the right to indictment by the grand jury and trial by jury, and if applicable, that the offense charged may be tried by the court upon waiver of indictment and trial by jury, if in writing and signed by the defendant.

At the time the written statement waiving the first appearance is filed with the court, a copy of that written statement shall be provided to the Criminal Division



Manager's office and to the County Prosecutor or the Attorney General, if the Attorney

General is the prosecuting attorney.

Source-R.R. 3:2-3(b), 8:4-2 (second sentence). Amended July 7, 1971 effective September 13, 1971; amended April 1, 1974 effective immediately; text of former Rule 3:4-2 amended and redesignated paragraphs (a) and (b) and text of former Rules 3:27-1 and -2 amended and incorporated into Rule 3:4-2, July 13, 1994 to be effective January 1, 1995; paragraphs (a) and (b) amended June 28, 1996 to be effective September 1, 1996; paragraph (b) amended January 5, 1998 to be effective February 1, 1998; caption amended, paragraphs (a) and (b) deleted, new paragraphs (a), (b), (c), and (d) adopted July 5, 2000 to be effective September 5, 2000; new paragraph (e) adopted July 21, 2011 to be effective September 1, 2011.

3:6-6. Who May Be Present; Record and Transcript

(a) . . . no change.

(b) Record; Transcript. A stenographic record or sound recording shall be made of all testimony of witnesses, comments by the prosecuting attorney, and colloquy between the prosecuting attorney and witnesses or members of the grand jury, before the grand jury.

When a digital sound recording of the grand jury proceedings has been made, after an indictment has been returned and if the indictment is not sealed, the court shall furnish or make available a copy of the grand jury proceedings to the parties on compact disk or by other electronic means. After an indictment has been returned, at the request of the defendant, a transcript of the grand jury proceedings shall be made. The request shall designate the portion or portions of the proceedings to be transcribed and the person or persons to whom the transcript is to be furnished. A copy of the request for a transcript will be served contemporaneously by the defendant upon the prosecutor, who may move for a protective order pursuant to R. 3:13-3(f).

The prosecutor may request a copy of the transcript at any time.

(c) . . . no change

Note: Source-R.R. 3:3-6(a)(b)(c); paragraphs (a) and (b) amended July 15, 1982 to be effective September 13, 1982; paragraph (b) amended and second paragraph added to paragraph (b) July 13, 1994, new text in paragraph (b) amended December 9, 1994, to be effective January 1, 1995; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

### 3:13-3. Discovery and Inspection

(a) . . . no change.

(b) . . . no change.

(c) . . . no change.

(d) . . . no change.

(e) . . . no change.

(f) Protective Orders.

(1) Grounds. Upon motion and for good cause shown the court may at any time order that the discovery or inspection sought pursuant to this rule be denied, restricted, or deferred or make such other order as is appropriate. In determining the motion, the court may consider the following: protection of witnesses and others from physical harm, threats of harm, bribes, economic reprisals and other intimidation; maintenance of such secrecy regarding informants as is required for effective investigation of criminal activity; confidential information recognized by law, including protection of confidential relationships and privileges [recognized by law]; or any other relevant considerations.

(2) Procedure. . . . no change

(g) . . . no change

Note: Source-R.R. 3:5-11(a)(b)(c)(d)(e)(f)(g)(h). Paragraphs (b)(c)(f) and (h) deleted; paragraph (a) amended and paragraphs (d)(e)(g) and (i) amended and redesignated June 29, 1973 to be effective September 10, 1973. Paragraph (b) amended July 17, 1975 to be effective September 8, 1975; paragraph (a) amended July 15, 1982 to be effective September 13, 1982; paragraphs (a) and (b) amended July 22, 1983 to be effective September 12, 1983; new paragraphs (a) and (b) added, former paragraphs (a), (b), (c), (d) and (f) amended and redesignated paragraphs (c), (d), (e), (f) and (g) respectively and former paragraph (e) deleted July 13, 1994 to be effective January 1, 1995; Rule redesignation of July 13, 1994 eliminated December 9, 1994, to be effective January 1, 1995; paragraphs (c)(6) and (d)(3) amended June 15, 2007 to be effective September 1, 2007; subparagraph (f)(1) amended July 21, 2011 to be effective September 1, 2011.

3:19-1. Several Defendants or Counts; Written Verdict Sheets

(a) . . . no change

(b) Written Verdict Sheets. [In the discretion of the court, a] A written verdict sheet [may] shall be submitted to the jury in conjunction with a general verdict to facilitate the determination of the grade of the offense under the Code of Criminal Justice or otherwise simplify the determination of a verdict. [, when multiple charges are submitted to the jury. A] The written verdict sheet shall include [be used in those cases in which the jury must find] the factual predicate for an enhanced sentence or the existence of a fact relevant to sentencing unless that factual predicate or fact is an element of the offense. A written verdict sheet shall be reviewed prior to summation at which time either party may raise an objection. Any objections to the verdict sheet shall be placed on the record. The verdict sheet shall be marked as a court exhibit and retained by the court pursuant to Rule 1:2-3.

Note: Source-R.R. 3:7-9(b); former rule redesignated as paragraph (a), paragraph (b) adopted and caption amended July 16, 1981 to be effective September 14, 1981; paragraph (b) amended July 10, 1998 to be effective September 1, 1998; paragraph (b) amended June 19, 2001 to be effective immediately; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

### 3:21-4. Sentence

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) ... no change.

(f) ... no change.

(g) Reasons for Sentence. At the time sentence is imposed the judge shall state reasons for imposing such sentence including findings pursuant to the criteria for withholding or imposing imprisonment or fines under N.J.S.A. 2C:44-1 to 2C:44-3; [and] the factual basis supporting a finding of particular aggravating or mitigating factors affecting sentence[.]; and, if applicable, the reasons for ordering forfeiture of public office, position or employment, pursuant to N.J.S.A. 2C:51-2.

(h) ... no change.

(i) ... no change.

(j) ... no change.

Note: Source-R.R. 3:7-10(d). Paragraph (f) amended September 13, 1971, paragraph (c) deleted and paragraphs (d), (e) and (f) redesignated as (c), (d) and (e) July 14, 1972 to be effective September 5, 1972; paragraph (e) adopted and former paragraph (e) redesignated as (f) August 27, 1974 to be effective September 9, 1974; paragraph (b) amended July 17, 1975 to be effective September 8, 1975; paragraphs (d) and (e) amended August 28, 1979 to be effective September 1, 1979; paragraph (d) amended December 26, 1979 to be effective January 1, 1980; paragraph (g) adopted July 26, 1984 to be effective September 10, 1984; paragraph (d) caption and text amended November 5, 1986 to be effective January 1, 1987; paragraph (d) amended November 2, 1987 to be effective January 1, 1988; paragraph (d) amended January 5, 1988 to be effective February 1, 1988; new paragraph (c) adopted and former paragraphs (c), (d), (e), (f), and (g) redesignated (d), (e), (f), (g), and (h) respectively June 29, 1990 to be effective September 4, 1990; paragraph (b) amended July 14, 1992 to be effective September 1,

1992; paragraph (i) adopted April 21, 1994 to be effective June 1, 1994; paragraphs (b), (e), (f) and (g) amended July 13, 1994 to be effective January 1, 1995; former paragraphs (f), (g), (h), and (i) redesignated as paragraphs (g), (h), (i), and (j) and new paragraph (f) adopted July 10, 1998 to be effective September 1, 1998; paragraph (j) amended July 5, 2000 to be effective September 5, 2000; paragraph (e) caption and text amended, and paragraph (f) amended June 15, 2007 to be effective September 1, 2007; paragraph (h) caption and text amended July 16, 2009 to be effective September 1, 2009; paragraph (g) amended July 21, 2011 to be effective January 1, 2011.

### 3:22-8. Contents of Petition; Verification

The petition shall be verified by defendant and shall set forth with specificity the facts upon which the claim for relief is based, the legal grounds of complaint asserted, and the particular relief sought. The petition shall include the following information: (a) the date, docket number, and content of the indictment or accusation upon which the conviction was based and the county where filed; (b) the date and content of the sentence or judgment complained of and the name of the presiding judge; (c) any appellate proceedings brought from the conviction, attaching a copy of opinions therein; (d) any previous post-conviction proceedings relating to the same conviction, giving date and nature of claim and date and nature of disposition, and concerning any appeal therefrom, together with copies of opinions therein, trial and appellate; (e) whether petitioner was represented by counsel in any of the proceedings aforementioned, naming the counsel in each such proceeding, and stating whether counsel was in each instance retained or assigned; (f) whether and where defendant is presently confined[.]; (g) when a claim of ineffective assistance of counsel is alleged that notice has been provided to the attorney whose performance is being challenged. Argument, citations and discussion of authorities shall be omitted from the petition, but may be submitted in a separate memorandum of law.

Note: Source-R.R. 3:10A-8; amended July 21, 2011 to be effective September 1, 2011.

3:22-13. Notice Requirements in Petitions for Post-Conviction Relief

(a) In all petitions for post-conviction relief where the ineffective assistance of counsel is being alleged, a copy of the petition shall be forwarded, as soon as practicable, to the attorney whose performance is being challenged. If the defendant is assigned counsel or otherwise represented by counsel, counsel shall provide the notice. If the defendant is appearing pro se, notice shall be provided by the defendant.

(b) In cases where the attorney whose performance is being challenged is employed by the Office of the Public Defender or by a law firm, those entities shall also receive notice.

Note: Adopted July 21, 2011 to be effective September 1, 2011.



4:101-1. Abstracts to Be Entered

(a) . . . no change

(b) Child Support Judgments and Orders. When a child support judgment or order issued pursuant to N.J.S.A. 2A:17-56.23a is entered in the Superior Court Child Support Judgment Index of the New Jersey [Automated Child Support Enforcement System (ACSES)] automated child support system, it shall have the same force and effect as entry of an abstract in the Civil Judgment and Order Docket pursuant to paragraph (a) of this rule.

Note: Source-R.R. 4:120-2 (first unnumbered paragraph). Paragraph (a) amended September 5, 1969 to be effective September 8, 1969; amended July 7, 1971 to be effective September 13, 1971; amended July 24, 1978 to be effective September 11, 1978; amended July 22, 1983 to be effective September 12, 1983; existing rule redesignated as paragraph (a) with new caption added and new paragraph (b) added July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

4:101-5. Assignments of, Postponement of Lien of, or Warrant to Satisfy Judgments;  
Entry of Satisfaction

(a) Assignments; Postponements; Warrants. . . . no change

(b) Entry of Satisfaction – Generally. . . . no change

(c) Entry of Satisfaction – Child Support Judgments and Orders. If a child support judgment or order entered in the Child Support Judgment Index requires payment to an individual obligee, the obligee shall execute a warrant of satisfaction as of the date requested by or on behalf of the obligor. If the order or judgment requires payment through Probation [a probation department], the Chief Probation Officer shall issue, upon request, a certification as to the amount due in a [the] form prescribed by the Administrative Director of the Courts [Appendix XIII to these rules], and the warrant of satisfaction shall be signed by both the creditor and the Chief Probation Officer.

Note: Source-R.R. 4:120-6 (first unnumbered paragraph). Paragraphs (a) and (b) amended and new paragraph (c) added July 14, 1992 to be effective September 1, 1992; paragraph (a) amended June 28, 1996 to be effective September 1, 1996; paragraph (c) amended July 21, 2011 to be effective September 1, 2011.

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) ... no change.

(2) ... no change.

(3) Expedited Track. The action shall be assigned to the expedited track if it appears that it can be promptly tried with minimal pretrial proceedings, including discovery. Subject to re-assignment as provided by paragraph (c) of this rule, a dissolution action shall be assigned to the expedited track if (A) there is no dispute as to either the income of the parties or the identifiable value of the [marital] assets and no issue of custody or parenting time has been raised; (B) the parties have [been married] had a marital, domestic partnership or civil union relationship for less than five years and have no children; (C) the parties have entered into a property settlement agreement; or (D) the action is uncontested.

(4) ... no change.

(b) ... no change.

(c) ... no change.

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.

5:2-1. Venue, Where Laid

Venue in family actions shall be laid in accordance with the applicable provisions of R. 3:14-1 and R. 4:3-2 except as follows:

(a)

(1) In actions primarily involving the support or parentage of a child (except actions in which the issue of support of a child is joined with claims for divorce, dissolution of civil union, termination of domestic partnership, or nullity) venue shall be laid, pursuant to the Uniform Interstate Family Support Act (UIFSA), in the county of New Jersey in which the child is domiciled, if New Jersey is determined to be the child's home state, as defined under N.J.S.A. 2A:4-30.65.

(2) ... no change.

(3) ... no change.

(4) ... no change.

(5) ... no change.

(b)

(1) In actions involving the welfare, custody, protection and status of a child (except actions in which the issues of welfare, custody, protection and status of a child are joined with claims for divorce, dissolution of civil union, termination of domestic partnership, or nullity), venue shall be laid, pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), in the county of New Jersey in which the child was last domiciled if New Jersey is determined to be the child's home state, as defined under N.J.S.A. 2A:34-54, and pursuant to N.J.S.A. 2A:34-65.

(2) ... no change.

(c) In divorce, dissolution of civil union, termination of domestic partnership, and nullity actions, venue shall be laid in accordance with R. 5:7-1.

(d) ... no change.

(e) ... no change.

(f) ... no change.

(g) ... no change.

Note: Source-new. Adopted December 20, 1983, to be effective December 31, 1983; paragraph (a) amended November 7, 1988 to be effective January 2, 1989; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; new paragraph (f) added June 15, 2007 to be effective September 1, 2007; paragraph (a) amended and text reallocated as paragraphs (a) and (b), paragraphs (b), (c), (d), (e), and (f) reallocated as paragraphs (c), (d), (e), (f), and (g) July 16, 2009 to be effective September 1, 2009; subparagraphs (a)(1) and (b)(1) and paragraph (c) amended July 21, 2011 to be effective September 1, 2011.

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

(a) ... no change.

(b) ... no change.

(c) Award of Attorney Fees. Subject to the provisions of R. 4:42-9(b), (c), and (d), the court in its discretion may make an allowance, both pendente lite and on final determination, to be paid by any party to the action, including, if deemed to be just, any party successful in the action, on any claim for divorce, dissolution of civil union, termination of domestic partnership, nullity, support, alimony, custody, parenting time, equitable distribution, separate maintenance, enforcement of [interspousal] agreements [relating to family type matters] between spouses, domestic partners, or civil union partners and claims relating to family type matters [in actions between unmarried persons]. A pendente lite allowance may include a fee based on an evaluation of prospective services likely to be performed and the respective financial circumstances of the parties. The court may also, on good cause shown, direct the parties to sell, mortgage, or otherwise encumber or pledge [marital] assets to the extent the court deems necessary to permit both parties to fund the litigation. In determining the amount of the fee award, the court should consider, in addition to the information required to be submitted pursuant to R. 4:42-9, the following factors: (1) the financial circumstances of the parties; (2) the ability of the parties to pay their own fees or to contribute to the fees of the other party; (3) the reasonableness and good faith of the positions advanced by the parties both during and prior to trial; (4) the extent of the fees incurred by both parties; (5) any fees previously awarded; (6) the amount of fees previously paid to counsel by each party; (7)

the results obtained; (8) the degree to which fees were incurred to enforce existing orders or to compel discovery; and (9) any other factor bearing on the fairness of an award.

(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 [Matrimonial] 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 [Matrimonial] Early Settlement Panel hearing or after the date ninety (90) days prior to the trial date, whichever is earlier, an attorney may withdraw from the action only by leave of court on motion 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 [Matrimonial] Early Settlement Panel hearing date or the 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.



5:3-7. Additional Remedies on Violation of Orders Relating to Parenting Time, Alimony, [or] Support or Domestic Violence Restraining Orders

(a) Custody or Parenting Time Orders. On finding that a party has violated an order respecting custody or parenting time, the court may order, in addition to the remedies provided by R. 1:10-3, any of the following remedies, either singly or in combination: (1) compensatory time with the children; (2) economic sanctions, including but not limited to the award of monetary compensation for the costs resulting from a parent's failure to appear for scheduled parenting time or visitation such as child care expenses incurred by the other parent; (3) modification of transportation arrangements; (4) pick-up and return of the children in a public place; (5) counseling for the children or parents or any of them at the expense of the parent in violation of the order; (6) temporary or permanent modification of the custodial arrangement provided such relief is in the best interest of the children; (7) participation by the parent in violation of the order in an approved community service program; [(9)] (8) incarceration, with or without work release; (9) issuance of a warrant to be executed upon the further violation of the judgment or order; and (10) any other appropriate equitable remedy.

(b) . . . no change

(c) Enforcement of Relief under Provisions of Domestic Violence Restraining Orders Not Subject to Criminal Contempt Complaints. On finding that a party has failed to comply with the provisions of a restraining order issued pursuant to the Prevention of Domestic Violence Act, not subject to criminal contempt (part II relief excluded under N.J.S.A. 2C:25-30), the court may, on notice to the defendant, in addition to the relief provided by R. 1:10-3, grant any of the following remedies, either singly or in

combination: (1) economic sanctions, (2) incarceration with or without work release, (3) issuance of a warrant to be executed upon further violation or non-compliance with the order, (4) any appropriate remedy under paragraph (a) or (b) above, applicable to custody or parenting time issues or alimony or child support issues, and (5) any other appropriate equitable remedy.

Note: Adopted January 21, 1999 to be effective April 5, 1999; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; caption amended, paragraph (a) amended, and new paragraph (c) adopted July 21, 2011 to be effective September 1, 2011.

#### 5:4-2. Complaint

(a) ... no change.

(b) ... no change.

(c) Affidavit of Verification and Non-Collusion. There shall be annexed to every complaint or counterclaim for divorce, dissolution of civil union, termination of domestic partnership, or nullity [of marriage] an oath or affirmation by the plaintiff or counterclaimant that the allegations of the complaint or counterclaim are true to the best of the party's knowledge, information and belief, and that the pleading is made in truth and good faith and without collusion for the causes set forth therein.

(d) Counterclaim. A counterclaim may state any family cause of action, and any other cause or causes of action which exist at the time of service of the counterclaim. A counterclaim not stated in an answer may be filed by leave of the court at any time prior to final judgment. Failure to counterclaim for divorce, dissolution of civil union, termination of domestic partnership, or nullity [of marriage] shall not bar such cause of action. In any action involving the welfare or status of a child the counterclaim shall include the child's name, address, date of birth and a statement of where and with whom the child resides.

(e) Amended or Supplemental Complaint or Counterclaim. In any action for divorce, dissolution of civil union, termination of domestic partnership, nullity, [of marriage] or separate maintenance, a supplemental complaint or counterclaim may be allowed to set forth a cause of action which has arisen or become known since the filing of the original complaint, and an amended complaint or counterclaim may be allowed to

change the action from [separate maintenance, absolute divorce or divorce from bed and board to any other one of said actions] the originally pleaded cause to any other cognizable family or family type action.

(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. 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 [property] 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 of each party to any proceeding involving alimony, maintenance or child support shall be accompanied by

a completed Confidential Litigant Information Sheet in the form prescribed [in Appendix XXIV] by the Administrative Director of the Courts. The form shall be provided at the time of the filing of the first 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) ... 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.

5:4-4. Service of Process in [Paternity and Support Proceedings; Kinship Legal Guardianship] Family Part Summary Actions; Initial Complaints and Applications for Post-Dispositional Relief

(a) Manner of Service. Service of process within this State for [paternity and support] Family Part summary actions, including initial complaints and applications for post-dispositional relief, shall be made in accordance with [Rule] R. 4:4-4, R. 5:9A-2, or paragraph (b) of this rule. For initial complaints, substituted [Substituted] or constructive service of process outside this State may be made pursuant to the applicable provisions in [Rule] R. 4:4-4 or [Rule] R. 4:4-5. Family Part summary actions shall include all non-dissolution initial complaints as well as applications for post-dispositional relief, applications for post-dispositional relief under the Prevention of Domestic Violence Act, and all kinship legal guardianship actions. Applications for post-dispositional relief shall replace motion practice in Family Part summary actions. The court in its discretion, or upon application of either party, may expand discovery, enter an appropriate case management order, or conduct a plenary hearing on any matter.

(b) [Establishment of a Paternity or Support Order and Proceedings for Kinship Legal Guardianship –] Service by Mail Program. Service of process for [initial paternity and support complaints and in proceedings for kinship legal guardianship] Family Part summary actions may be effected as follows:

(1) [Initial] Service by Mail. The Family Part shall mail process simultaneously by both certified and ordinary mail to the mailing address of the [defendant] adverse party provided by the party filing the complaint or application for post-dispositional relief.

(2) Effective Service. Consistent with due process of law, service by mail pursuant to this rule shall have the same effect as personal service, and the simultaneous mailing shall constitute effective service unless there is no proof that the certified mail was received, or either the certified or the regular mail is returned by the postal service marked "moved, unable to forward," "addressee not known," "no such number/street," "insufficient address," "forwarding order expired," or the court has other reason to believe that service was not effected. Process served by mail may be addressed to a post office box. Where process is addressed to the [defendant] adverse party at that person's place of business or employment, with postal instructions to deliver to addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the [defendant] adverse party to whom process was mailed.

(3) Ineffective Service. If service cannot be effected by mail or by other means permitted by court rules, the court shall dismiss the complaint or application for post-dispositional relief without prejudice, subject to reinstatement retroactive to the original filing date if service is subsequently effected.

(4) Affidavit or Certification of Non-Military Service. For initial complaints, no [No] order shall be entered by default until an affidavit or certification of non-military service, as prescribed in R. 1:5-7, is provided to the court. The forms and procedures to implement this rule shall be prescribed by the Administrative Director of the Courts.

(5) Vacating Defaults. If process is returned to the court by the postal service subsequent to entry of default and the certified mail receipt displays any of the notations listed in the paragraph (b)(2) of this Rule, or another reason exists to believe

that service was not effected, the court shall vacate the order entered by default, immediately notify [plaintiff] the filing party or the attorney of the action taken, and reinstitute efforts to serve [defendant] the adverse party either by mail or personally. The adverse party [A defendant] may, at any time after an order has been entered by default based on mailed service, file a motion or an application for post-dispositional relief, requesting that [a paternity or support] an order be vacated or modified based on the fact that [defendant] the adverse party was not served with process prior to entry of the order. A party alleging that process was not received must show that the address to which process was directed was not that person's address at the time that the order was entered. Upon such a showing, the court may conduct a hearing [or order paternity testing] to determine whether the order should be modified or vacated.

(c) Diligent Inquiry in Family Part Summary Actions.

(1) For purposes of initial complaints or upon the filing of any application for post-dispositional relief in a Family Part summary action, where the adverse party cannot be located, the filing party must provide the last known home address and demonstrate, through diligent inquiry, that no current address is known for the adverse party. Where it appears to the court by affidavit or certification of diligent inquiry filed by the filing party that the adverse party cannot be located, the court may proceed to hear the matter. For initial complaints, nothing in this rule shall prohibit the court from ordering substituted service by publication in accordance with R. 4:4-5(c).

(2) Such diligent inquiry efforts by the filing party should include, as appropriate, inquiries to the relatives and last known employers of the person, the U.S. Postal Service, the NJ Motor Vehicle Commission or the motor vehicle agency of the



State where the person was last known to be living, and the United States Department of Defense. The affidavit or certification of diligent inquiry must be in the form as determined by the Administrative Director of the Courts.

(3) Vacating default orders shall be in accordance with paragraph (b)(5) of this rule. This request can be made by the filing of a motion or application for post-dispositional relief by a party or, by the court, on its own motion, during any enforcement proceeding. The party alleging that process was not received must demonstrate proof that the home address at the time the notice was sent was not that party's correct home address. The court may conduct a hearing, as it deems necessary, to determine if the order should be modified or vacated.

(d) [(c)] Enforcement of a Support Order. For purposes of enforcing a support provision in an order or judgment, the court may deem due process requirements for notice and service of process to have been met with respect to the obligor on delivery of written notice to the most recent residential or employer address. If the obligor fails to respond to the notice and no proof is available that the obligor received the notice, the party bringing the enforcement action must show that diligent efforts have been made to locate the obligor by making inquiries to the U.S. Postal Service, the Motor Vehicle Commission, the Department of Labor, and the Department of Corrections. A certification documenting unsuccessful efforts to locate the obligor shall be provided to the court before any action adverse to the obligor is taken based on failure of the obligor to respond to a notice.

(e) [(d)] General Appearance; Acknowledgment of Service. For initial complaints,  
a [A] general appearance or an acceptance of the service of a summons, signed or

acknowledged on the record by defendant's attorney, or signed and acknowledged by defendant or by a competent adult in defendant's household, or as otherwise provided in R. 4:4-4, shall have the same effect as if defendant had been properly served.

Note: Adopted July 10, 1998 to be effective September 1, 1998; paragraph (b) amended July 28, 2004 to be effective September 1, 2004; new paragraph (b)(4) adopted, former paragraph (b)(4) redesignated as paragraph (b)(5), and paragraph (c) amended June 15, 2007 to be effective September 1, 2007; caption amended, paragraph (a) amended, paragraph (b) caption and introductory text amended, subparagraph (b)(1) caption and text amended, subparagraph (b)(2), (b)(3), (b)(4) and (b)(5) text amended, new paragraph (c) caption and text adopted, former paragraph (c) redesignated as paragraph (d), former paragraph (d) redesignated as paragraph (e) and amended July 21, 2011 to be effective September 1, 2011.

5:5-1. Discovery

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

(a) ... no change.

(b) ... no change.

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

(d) ... no change.

(e) ... no change.

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

5:5-2. Family Case Information Statement

(a) ... no change.

(b) ... no change.

(c) ... no change.

(d) ... no change.

(e) Marital, Civil Union or Domestic Partnership Standard of Living Declaration.

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

(f) ... 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.

### 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 [the] a form [set forth in Appendix XIV of these Rules] 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. In summary actions to determine the support of spouse, civil union partner, or domestic partner, 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. Such affidavit or certification shall be preserved for appellate review but shall not be filed. 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 Litigant Information Sheet in a [the] form [set forth in Appendix XXIV of these Rules] 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.

5:5-6. Participation in Mandatory Post-ESP [MESP] Mediation or in a Mandatory Post-ESP [MESP] Complementary Dispute Resolution Event

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

(b) Mandatory Two Hour Minimum Participation. Unless good cause is shown why a particular matter should not be referred to this post-ESP [post-MESP] program, litigants shall be required to participate in the program for no more than two hours, consisting of one hour of preparation time by the mediator or other individual conducting the alternate CDR event and one hour of time for the mediation or other CDR event. The litigants will not be charged a fee for the mandatory first two hours of mediation. Participation after the first two hours shall be voluntary.

(c) Allocation of Fees After Two Hour Minimum. If litigants consent to continue the mediation process, the Economic Mediation Referral Order will determine the distribution of costs for each party for the additional hours. If the litigants choose to

participate in an alternate post-ESP [post-MESP] CDR event, the fee shall be set by the individual conducting the session. The litigants shall share the cost equally unless otherwise determined by the court. The litigants are required to participate in at least one session of such alternate post-ESP [post-MESP] CDR event.

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



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

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

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

5:6-6. Probation-Initiated Status Review of Support Orders [ Modification of Title IV-D  
Child Support Orders ]

The Probation Division may present to the court for status review any appropriate case being enforced by Probation [under Title IV, Part D of the Social Security Act (42 U.S.C. §§ 601 to 669)], subject to appropriate procedural due process requirements [where for adjustment of the child support award or the addition of a health insurance provision in accordance with N.J.S.A. 2A:17-56.9a]. The court shall consider such cases and may modify [orders in accordance with the child support guidelines], suspend or terminate a support order, close a Probation-supervised case, or take such action as the court may deem appropriate and just. Status review hearings shall not substitute for motions or applications for post-dispositional relief initiated by parties to the case and may only be used by Probation as a vehicle to manage cases being enforced by Probation [or other relevant factors. If the proposed modification is contested, the moving party or that person's attorney shall be responsible for preparing and filing all motions and supporting documentation required under these Rules. The moving party shall be responsible for paying all applicable filing fees. If the moving party states under oath in the application that he or she is indigent and unable to pay the required filing fees, the court, if satisfied of the fact of indigency, may waive the payment of such fees in accordance with Rule 1:13-2]. The forms and procedures to implement the provisions of this Rule shall be prescribed by the Administrative Director of the Courts.

Note: Adopted October 5, 1993 to be effective October 13, 1993; caption and text amended July 21, 2011 to be effective September 1, 2011.

#### 5:6-7. Separate Maintenance

An action for separate maintenance pursuant to N.J.S.A. 2A:34-24 shall be brought as a summary action unless designated as non-summary in nature by the Family Part Presiding Judge. When the response to the original Complaint for Separate Maintenance contains a counterclaim for divorce, dissolution of civil union or termination of domestic partnership, the action shall immediately be transferred to the dissolution (FM) docket without the need for a formal motion.

Note: Adopted July 28, 2004 to be effective September 1, 2004; amended July 21, 2011 to be effective September 1, 2011.

RULE 5:7. Divorce, Dissolution of Civil Union, Termination of Domestic Partnership, Nullity, Separate Maintenance

5:7-1. Venue

Except as otherwise provided by law, venue in actions for divorce, dissolution of civil union or termination of domestic partnership, nullity and separate maintenance shall be laid in the county in which plaintiff was domiciled when the cause of action arose, or if plaintiff was not then domiciled in this State, then in the county in which defendant was domiciled when the cause of action arose; or if neither party was domiciled in this State when the cause of action arose, then in the county in which the plaintiff is domiciled when the action is commenced, or if plaintiff is not domiciled in this State, then in the county where defendant is domiciled when service of process is made. For purposes of this rule, in actions brought under N.J.S.A. 2A:34-2(c), the cause of action shall be deemed to have arisen three months after the last act of cruelty complained of in the Complaint. For purposes of this rule, in actions brought under N.J.S.A. 26:8A-10 for termination of a domestic partnership in which both parties are non-residents, venue shall be laid in the county in which the Certificate of Domestic Partnership is filed.

Note: Source-R. (1969) 4:76. 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 13, 1994 to be effective September 1, 1994; Rule 5:7 caption amended and Rule 5:7-1 text amended July 21, 2011 to be effective September 1, 2011.

5:7-2. Application Pendente Lite

(a) . . . no change

(b) Restraints; Contempt; Enforcement. If pendente lite relief is sought, by way of preliminary restraint, [or] to hold a party in contempt or to enforce litigant's rights, the application shall be [on petition and] by motion or order to show cause.

Note: Source-R. (1969) 4:79-3(a), (b). Adopted December 20, 1983, to be effective December 31, 1983; paragraph (a) amended January 10, 1984, to be effective April 1, 1984; paragraph (b) caption and text amended July 21, 2011 to be effective September 1, 2011.

### 5:7-3. Corroboration

All elements of a claim for divorce, dissolution of civil union, termination of domestic partnership or nullity may be proved without corroboration.

Note: Source-R. (1969) 4:79-7. Adopted December 20, 1983, to be effective December 31, 1983; amended July 21, 2011 to be effective September 1, 2011.

#### 5:7-4. Alimony and Child Support Payments

(a) . . . no change

(b) Payments Administered by the Probation Division. Enforcement of child support orders shall presumptively be in the county in which the child support order is first established (county of venue), unless the court orders the case transferred for cause. In cases where venue of a support case is transferred, Probation supervision of the case shall concurrently be transferred to the county of venue, unless the court otherwise orders for cause. The responsibility for the administration and enforcement of the judgment or order, including the transfer of responsibility, shall be governed by the policies established by the Administrative Director of the Courts. Alimony, maintenance, or child support payments not presently administered by the Probation Division shall be so made on application of either party to the court unless the other party, on application to the court, shows good cause to the contrary. In non-dissolution support proceedings, the court shall record its decision using the Uniform Order for Summary Support [shown in Appendix XVI of these Rules] promulgated by the Administrative Director of the Courts. On the signing of any order that includes alimony, maintenance, child support, or medical support provisions to be administered by the Probation Division, the court shall, immediately after the hearing, send to the appropriate judicial staff one copy of the order which shall include a Confidential Litigant Information Sheet in the form prescribed [in Appendix XXIV] by the Administrative Director of the Courts prepared by the parties or their attorneys providing the names, dates of birth, Social Security Numbers, and mailing addresses of the parents and the children; the occupation and driver's license number of the parent who is ordered to pay support; the policy number and name of the health

insurance provider of the parent who is ordered to insure the children; and, if income withholding is ordered, the name and address of the obligor's employer. When a party or attorney must prepare a formal written judgment or order pursuant to a judicial decision that includes alimony, maintenance or child support or medical support provisions to be administered by the Probation Division, the court shall, on the date of the hearing, record the support and health insurance provisions on a Temporary Support Order using the form prescribed [in Appendix XVII of these Rules] by the Administrative Director of the Courts and shall immediately have such order and a Confidential Litigant Information Sheet in the form prescribed [in Appendix XXIV] by the Administrative Director of the Courts (if it has not yet been provided by the parties or counsel) delivered to the appropriate judicial staff so that a support account can be established on the [Automated Child Support Enforcement System (ACSES)] New Jersey automated child support system. A probation account shall be established on [ACSES] the automated child support system within eight business days of the date the court order was signed. Demographic information provided on the Confidential Litigant Information Sheet shall be required to establish a probation account and send case initiation documents to the parties and the obligor's employer. The Temporary Support Order shall remain in effect until a copy of the final judgment or order is received by the Probation Division. Judgments or orders amending the amounts to be paid through the Probation Division shall be treated in the same manner.

(c) . . . no change

(d) . . . no change

(e) . . . no change



(f) . . . no change

(g) Electronic Signatures on Child Support Orders.

(1) An electronic signature is one gathered through the use of a computer input device. An electronic signature is an acceptable alternative to a signature collected through an ink pen on paper, and constitutes an original signature.

(2) The automated child support system provides a mechanism for collecting electronic signatures of the parties, child support hearing officer, and judge of the Superior Court on a computerized or digital version of the Uniform Summary Support Order ("USSO").

(3) When an electronic signature of a party or other non-judiciary personnel is collected through the automated child support system, the signing individual must be given notice at the time the signature is collected, preferably in writing, of the significance of the requested signature.

Note: Source – R. (1969) 4:79-9(a). Adopted December 20, 1983, to be effective December 31, 1983; amended November 2, 1987 to be effective January 1, 1988; amended January 5, 1988 to be effective February 1, 1988; amended June 29, 1990 to be effective September 4, 1990; caption and text amended October 5, 1993 to be effective October 13, 1993; caption amended, text amended and redesignated as paragraphs (a), (b), and (d), captions of paragraph (a) through (e) and text of paragraphs (c) and (e) adopted July 13, 1994 to be effective September 1, 1994; paragraph (d) amended March 15, 1996 to be effective immediately; paragraph (b) amended June 28, 1996 to be effective immediately; caption of paragraph (d) and text of paragraphs (d) and (e) amended May 25, 1999 to be effective July 1, 1999; paragraph (b) amended July 5, 2000 to be effective September 5, 2000; paragraph (b) amended July 12, 2002 to be effective September 3, 2002; paragraph (b) caption and text amended, new paragraph (c) adopted, former paragraph (c) redesignated as paragraph (d), former paragraph (d) amended (including incorporation of some text of former paragraph (e)) and redesignated as paragraph (e), and former paragraph (e) deleted July 28, 2004 to be effective September 1, 2004; new paragraph (c) adopted, and former paragraphs (c), (d), and (e) redesignated as paragraphs (d), (e), and (f) July 27, 2006 to be effective September 1, 2006; paragraph (f) amended June 15, 2007 to be effective September 1, 2007; paragraph (b) amended and new paragraph (g) adopted July 21, 2011 to be effective September 1, 2011.

5:7-7. Delay in Prosecution: Order to Proceed

In divorce, dissolution of civil union, termination of domestic partnership, and nullity actions, a party either resisting an order of dismissal pursuant to R. 1:13-7 or seeking an order to proceed after such dismissal shall file an affidavit stating the reason for the delay, the relations of the parties toward each other since the commencement of the action, and any agreements or understandings between them.

Note: Source-R. (1969) 4:79-10. Adopted December 20, 1983, to be effective December 31, 1983; amended July 21, 2011 to be effective September 1, 2011.

5:7-8. Bifurcation

Bifurcation of trial of the [marital dissolution] divorce, dissolution of civil union, termination of domestic partnership or custody dispute from trial of disputes over support and equitable distribution shall be permitted only with the approval of the Family Presiding Judge, which approval shall be granted only in extraordinary circumstances and for good cause shown.

Note: Adopted January 21, 1999 to be effective April 5, 1999; amended July 21, 2011 to be effective September 1, 2011.

5:7-9. Affidavit or Certification of Non-Military Service

In every action and proceeding for divorce, dissolution of civil union, termination of domestic partnership, nullity, separate maintenance, or child support, no order shall be entered by default unless an affidavit or certification of non-military service is provided to the court, as provided in R. 1:5-7.

Note: Adopted June 15, 2007 to be effective September 1, 2007; amended July 21, 2011 to be effective September 1, 2011.

#### 5:7A. Domestic Violence: Restraining Orders

(a) . . . no change

(b) Issuance of Temporary Restraining Order by Electronic Communication. A judge may issue a temporary restraining order upon sworn oral testimony of an applicant who is not physically present. Such sworn oral testimony may be communicated to the judge by telephone, radio or other means of electronic communication. The judge or law enforcement officer assisting the applicant shall contemporaneously record such sworn oral testimony by means of a tape-recording device or stenographic machine if such are available; otherwise, adequate long hand notes summarizing what is said shall be made by the judge. Subsequent to taking the oath, the applicant must identify himself or herself, specify the purpose of the request and disclose the basis of the application. This sworn testimony shall be deemed to be an affidavit for the purposes of issuance of a temporary restraining order. A temporary restraining order may issue if the judge is satisfied that exigent circumstances exist sufficient to excuse the failure of the applicant to appear personally and that sufficient grounds for granting the application have been shown. Upon issuance of the temporary restraining order, the judge shall memorialize the specific terms of the order and shall direct the law enforcement officer assisting the applicant to enter the judge's authorization verbatim on a form, or other appropriate paper, designated the duplicate original temporary restraining order. This order shall be deemed a temporary restraining order for the purpose of N.J.S.A. 2C:25-28. The judge shall direct the law enforcement officer assisting the applicant to print the judge's name on the temporary restraining order. The judge shall also contemporaneously record factual determinations. Contemporaneously the judge shall issue a written confirmatory

order and shall enter thereon the exact time of issuance of the duplicate order. In vicinages where an approved form of electronic temporary restraining order is utilized and prepared electronically by the municipal court judge on a notebook computer or other device, the temporary restraining order may be transmitted electronically without need for a duplicate written order. In all other respects, the method of issuance and contents of the order shall be that required by [sub-section] paragraph (a) of this rule.

(c) . . . no change

(d) . . . no change

(e) . . . no change

(f) . . . no change

Note: Adopted November 1, 1985 to be effective January 2, 1986; paragraph (a) amended, paragraph (b) caption and text amended and new paragraphs (c) and (d) adopted November 2, 1987 to be effective January 1, 1988; caption amended, former paragraph (c) redesignated paragraph (e), former paragraph (d) redesignated paragraph (f) and new paragraphs (c) and (d) adopted November 18, 1993 to be effective immediately; paragraphs (a), (b), and (e) amended July 12, 2002 to be effective September 3, 2002; paragraph (f) amended July 7, 2005 to be effective immediately; paragraph (b) amended July 21, 2011 to be effective September 1, 2011.

#### 5:8-2. Direction for Periodic Reports

If an award of custody of minor children has been made, the court may in its discretion file a certified copy of its order or judgment with the [probation office] Family Division of the county or counties in which the child or children reside with a direction therein to such [probation office] Family Division to make periodic reports to the court as to the status of the custody. It shall be the duty of counsel to file 2 copies of the order or judgment with the [probation office] Family Division within 2 days, together with information concerning the exact place of residence of the child or children. Upon the filing of such report, the court may on its own motion, and where it deems it necessary, reopen the case and schedule a formal hearing on proper notice to all parties.

A certified copy of a custody decree of another state [filed with the Clerk of the Superior Court of this State] shall be [sent] filed pursuant to [the probation office of the county or counties in which the child or children reside] procedures promulgated by the Administrative Office of the Courts.

Note: Source-R. (1969) 4:79-8(b). Adopted December 20, 1983, to be effective December 31, 1983; amended November 7, 1988 to be effective January 2, 1989; amended July 21, 2011 to be effective September 1, 2011.

#### 5:8-4 Filing of Report

The written report of an investigation made pursuant to this rule shall be filed with the court, shall be furnished to the parties, and shall thereafter be filed in the office of the [Chief Probation Officer] Family Division. The report shall be regarded as confidential, except as otherwise provided by rule or by court order. The report shall be received as direct evidence of the facts contained therein which are within the personal knowledge of the [probation officer who] Family Division personnel who made the investigation and report, subject to cross-examination.

Note: Source-R. (1969) 4:79-8(d). Adopted December 20, 1983, to be effective December 31, 1983; amended July 13, 1994 to be effective September 1, 1994; amended July 21, 2011 to be effective September 1, 2011.



5:8B. Appointment of Guardian Ad Litem

(a) ... no change.

(b) ... no change.

(c) Term. The term of the guardian ad litem shall be coextensive with the application pending before the court and shall end on the entry of a judgment of divorce [Judgment of Divorce], dissolution of a civil union or termination of a domestic partnership or an order [Order] terminating the application for which the appointment was made, unless continued by the court. The guardian ad litem shall have no obligation to file a notice of appeal from a judgment [Judgment] or order [Order] nor to participate in an appeal filed by a party.

(d) ... no change.

Note: Adopted November 6, 1989, to be effective January 2, 1990; paragraph (a) amended July 5, 2000 to be effective September 5, 2000; paragraph (c) amended July 21, 2011 to be effective September 1, 2011.

#### 5:9-1. Venue

An action by an approved agency for the termination of parental rights to a child shall be brought and venue shall be laid in the county in which the plaintiff has its principal office in New Jersey, except that if a parent of the child was granted a divorce, dissolution of a civil union or termination of a domestic partnership from the other parent by a judgment of the Superior Court or if there has been a prior proceeding or order in the Superior Court affecting the custody of the child and such court shall not previously have awarded custody of the child to an approved agency, the action shall be instituted in the Superior Court and the venue shall be laid in the same county in which the venue in such divorce, dissolution, or termination action was laid.

Note: Source-R. (1969) 4:93-1(a). Adopted December 20, 1983, to be effective December 31, 1983; amended July 21, 2011 to be effective September 1, 2011.

5:10-2. Caption of Complaint; Waiver of Filing Fees

(a) The complaint in an action for the adoption of a child shall be verified and shall state the title of the action as "In the matter of the adoption of a child [(or children)] by \_\_\_\_\_."

(b) Each complaint shall address only one adoptee. However, the supporting documentation for a sibling group being adopted by a single family may be submitted as one set of documents that supports all the siblings' complaints for adoption.

(c) In cases involving multiple children, the filing fee or fees for the additional children may be waived at the discretion of the Surrogate upon the plaintiff's showing of financial hardship.

Note: Source-R. (1969) 4:94-2(a). Adopted December 20, 1983, to be effective December 31, 1983; caption amended, text amended and designated as paragraph (a), and new paragraphs (b) and (c) adopted July 21, 2011 to be effective September 1, 2011.

### 5:10-3. Contents of Complaint

(a) Complaint. The complaint shall state:

[(a)](1) The name, age, citizenship and domicile of each plaintiff and the relationship, if any, of each plaintiff to the child to be adopted.

[(b)](2) The name, age and citizenship of the spouse, civil union partner or domestic partner of the plaintiff (if such [spouse] person is not also a plaintiff), and the relationship, if any, of such [spouse] person to the child to be adopted.

[(c)](3) The name, age, date of birth and birthplace of the child to be adopted; or if unknown to the plaintiff or plaintiffs, the complaint shall so state.

(4) The date of the child's placement in the adoptive home and, if applicable, a statement that the complaint has been filed early pursuant to N.J.S.A. 9:3-47(a).

[(d)](5) The name, age and birthplace of all [natural] biological and adopted children of the plaintiff or plaintiffs.

[(e)](6) The name, age and birthplace of all [natural] biological and adopted children of the spouse, civil union partner, or domestic partner of the plaintiff (if such [spouse] person is not also a plaintiff).

[(f)](7) The name of the approved agency or other source from which the plaintiff or plaintiffs received the child to be adopted, including proof of the manner in which the child became legally free for adoption or a statement that parental rights have not been terminated.

[(g)](8) The date of commencement of each period during which the child to be adopted came under the continuous care of the plaintiff or plaintiffs, and the

duration of each such continuous period. If the child has not been received from or with the approval of an approved agency and the complaint has not been filed promptly as required by statute, a statement of the reasons for the delay shall be made.

[(h)](9) The name and residence of each [natural] biological or legal parent and guardian or custodian of the child to be adopted. If such is unknown to the plaintiff or plaintiffs, or if deceased, the complaint shall so state. If unknown, there shall be annexed to the complaint an affidavit [of the plaintiff or plaintiffs] stating the extent of their inquiry and knowledge with respect thereto. Such affidavit may be executed by the plaintiff or plaintiffs, the biological or legal parent placing the child, the child's guardian or any combination thereof. The plaintiff or plaintiffs also shall submit an affidavit stating [and] the circumstances under which the child was received into their home. Such affidavit or affidavits may be omitted if the child to be adopted was received by the plaintiff or plaintiffs from an approved agency.

[(i)](10) Whether or not either [natural] biological or legal parent of the child to be adopted has been granted a divorce, dissolution of a civil union or termination of a domestic partnership from the other [natural] biological or legal parent, unless such information is unknown to the plaintiff or plaintiffs. If unknown, the complaint shall so state.

[(j)] (11) A full description of all property belonging to the child to be adopted. If none or unknown, the complaint shall so state.

[(k)](12) The name by which the child to be adopted shall be known.

[(l)](13) The occupation of the plaintiff or plaintiffs, and an allegation that the plaintiff or plaintiffs are able to support the child to be adopted.

[(m)](14) If the spouse, civil union partner or domestic partner of a plaintiff has consented to the proposed adoption, such consent shall be annexed to the complaint or appended thereto.

[(n)](15) If the plaintiff or plaintiffs shall have received the child to be adopted from or with the approval of an approved agency, the consent of such approved agency to the proposed adoption shall be annexed to the complaint or appended thereto.

(16) That neither the child nor the child's biological parents are members or eligible to be members of a federally recognized Indian tribe in accordance with the requirements set forth in R. 5:10-6.

(17) Any and all prior addresses where each plaintiff and any adults in the adoptive home have resided within the last five years.

(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) A report of consideration and expenses in accordance with N.J.S.A. 9:3-55(a).

(2) Home study report.

(3) The results of criminal history and child abuse record information checks, including a statement as to waiver of objection regarding those results. Such checks shall be conducted within one year prior to the filing of the complaint for each person 18 years of age or older in the adoptive household.

(4) The signed original agency consent to the adoption dated within 120 days prior to the filing of the complaint, and if applicable, the agency's signed original consent to early filing of the complaint pursuant to N.J.S.A. 9:3-47(a).

(5) The agency shall certify as follows:

(A) An explanation and evaluation of the results of the fingerprint checks as it concerns the proposed adoption;

(B) A termination of parental rights judgment is not pending appeal;

(C) The agency is unaware of any pending concurrent adoption action existing in another county;

(D) The plaintiff or plaintiffs have been provided with full disclosure of the adoptee's known life and medical history and the biological parents' known medical history;

(E) Whether the plaintiff or plaintiffs have entered into a subsidy agreement if applicable;

(F) No adult member of the adoptive household has been convicted of a crime that bars adoption pursuant to the Adoption and Safe Families Act (ASFA); and

(G) In DYFS cases, the adoptee's verified current social security number, and that the card will be supplied to the plaintiff or plaintiffs if available.

(6) Form of order fixing a hearing date.

(7) Interstate Compact on the Placement of Children authorization form that approves the placement, if applicable.

(8) When a child is placed for adoption by a private adoption agency, and termination of parental rights has not been granted or the biological or legal parents have not surrendered their rights, the complaint must have attached to it an affidavit of non-military service in accordance with R. 1:5-7.

(c) Private Adoptions; Attachments. For every private 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) A report of consideration and expenses in accordance with N.J.S.A. 9:3-55(a), except where the plaintiff is a stepparent, brother, sister, grandparent, aunt, uncle, or biological father of the child.

(2) Affidavit of the circumstances under which the child was received in the adoptive home.

(3) In the case of a second-parent or co-parent adoption, the complaint shall be the same as that of a stepparent adoption.

(4) When termination of parental rights has not been granted or the biological or legal parents have not surrendered their rights, the complaint must have attached to it an affidavit of non-military service in accordance with R. 1:5-7.

(5) Form of order setting a date for a preliminary or final hearing.

(d) Affidavit of Verification and Non-Collusion. There shall be attached to every complaint for adoption an oath or affirmation by the plaintiff or plaintiffs that the allegations of the complaint are true to the best of the party's knowledge, information and belief, and that the pleading is made in truth and good faith and without collusion for the causes set forth therein.



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.

5:10-4. Surrogate Action [Action on Complaint]

(a) Review of Complaint Prior to Docketing. Prior to docketing, the Surrogate shall review the complaint to ensure that proper venue is laid in accordance with R. 5:10-1, and that it contains the following:

- (1) all information required by R. 5:10-3,
- (2) a current address and any prior addresses within the last five years for each plaintiff,
- (3) the names, dates of birth and all residences within the past five years of all other adults in the adoptive home,
- (4) the marital, domestic union, or civil union status of each plaintiff and the name of the spouse or partner, if such person is not also a plaintiff, and
- (5) a home study report that is consistent with the information set forth in the complaint.

(b) Jurisdiction.

(1) Upon the filing of a complaint for the adoption of a child, if it appears therefrom that there is jurisdiction and that each plaintiff is qualified, as required by statute, and that the complaint is substantially complete in all respects, the complaint shall be docketed. At the time of docketing, the Surrogate's staff shall conduct a party look-up in the Judiciary case management system to determine if any of the parties exist in the court's system. If a party exists in the system, the party's demographic information shall be copied into the adoption case using the process in the Judiciary's case management system.

(2) The court shall fix a day for preliminary or final hearing as provided by statute. The Surrogate shall provide the entire adoption file to the court for review no later than five business days before the first adoption proceeding.

(3) If there is a lack of jurisdiction or lack of qualification on the part of a plaintiff the court shall dismiss the complaint forthwith. If a complaint is not substantially complete in all respects, the court shall order the plaintiff to file an amended complaint or shall dismiss the complaint without prejudice, as the situation requires.

Note: Source-R. (1969) 4:94-3. Adopted December 20, 1983, to be effective December 31, 1983; caption amended, former text redesignated as paragraph (b), paragraph (b) caption adopted, paragraph (b) amended, and new paragraph (a) adopted July 21, 2011 to be effective September 1, 2011.

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 name checks.

(2) Form of order upon completion of preliminary hearing.

(3) Proof of service on the biological or legal parent or parents or any of the following if not previously submitted:

(A) Termination of parental rights judgment;

(B) Parent's death certificate;

(C) Affidavit of diligent inquiry to locate the parent or parents;

(D) Surrender of parental rights to agency;

(E) Judicial surrender order;

(F) Denial of paternity form;

(G) Evidence that the biological father does not appear on the child's birth certificate, and he has not taken action pursuant to N.J.S.A. 9:3-45(b)(6);

(H) Proof of service of a notice of intent to place the child for adoption pursuant to N.J.S.A. 9:3-45(b)(3) with no objection having been filed;

(I) Affidavit executed by the placing parent that the parent cannot identify or refuses to identify the other biological or legal parent.

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

(1) A proposed judgment of adoption for each child being adopted.

(2) Final agency report or reports.

(3) Consent from agency for private agency placements.

(4) Proof of service or affidavit of inquiry on a biological or legal parent or parents in non-DYFS cases if parental rights have not been previously terminated, or irrevocably surrendered in the case of an agency placement.

(5) An approved Interstate Compact for the Placement of Children request if applicable.

(6) Report of adoption form from Bureau of Vital Statistics. For children born outside of New Jersey, the plaintiff or plaintiff's attorney is responsible for obtaining the amended birth certificate.

(7) Check payable to "Treasurer, State of New Jersey" if the child was born in New Jersey or if the action seeks a foreign readoption or an adoption of a child born in a foreign country.

(8) For adoptions in which a foreign country conveyed guardianship or custody for the purpose of adoption in the United States:

(A) Post-placement reports from the approved adoption agency if required by the court,

(B) The final court report of the approved New Jersey adoption agency supervising the placement, and

(C) The final consent of adoption from the approved New Jersey adoption agency supervising the placement.

(c) If a final hearing is waived in a non-agency private adoption pursuant to N.J.S.A. 9:3-48(c)(4), the documents required in paragraph (b) must be provided to the court at least ten business days before the preliminary hearing.

(d) For adoptions in which a foreign country conveyed guardianship or custody for the purpose of adoption in the United States:

(1) If an approved New Jersey adoption agency is supervising the placement, then the court rules relating to agency adoption shall apply.

(2) If the child is placed directly with the plaintiffs for purposes of a private adoption in the United States, then the court rules relating to a direct private placement adoption shall apply.

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.

5:10-6. Indian Child Welfare Act

At the first hearing following the filing of the adoption complaint, the court shall determine whether there is reason to believe that the child or either biological parent may be a member, or eligible to be a member, of a federally recognized Indian tribe, pursuant to the Indian Child Welfare Act (ICWA). If so, the court shall order an investigation, including notification to the appropriate tribe, to determine if ICWA applies. The ICWA findings shall be made on the record and documented in a court order.

Note: New Rule 5:10-6 adopted (and former Rule 5:10-6 redesignated as Rule 5:10-9) July 21, 2011 to be effective September 1, 2011.

5:10-7. Judicial Surrender of Parental Rights

(a) Procedure. A biological or legal parent may surrender his or her parental rights before the court. Upon filing of a written request for surrender by a biological or legal parent or the biological or legal parent's attorney, a hearing shall be scheduled on an expedited basis by the Surrogate in the county where the biological or legal parent or parents reside, if a resident of New Jersey; or in the county where the child was born if born in New Jersey; or in the county where the adoptive parents reside; or where the complaint for adoption is filed.

(b) Contents of Request for Judicial Surrender. The written request shall contain:

- (1) Certification of biological or legal parents consenting to adoption;
- (2) Good faith representation that the child is not a member of or eligible to be a member of a federally recognized Indian tribe;
- (3) Dates of availability to appear for a hearing within seven days of filing; and
- (4) Proposed form of order.

(c) Hearing. The court shall conduct a closed hearing on the record within seven days of filing to determine if the surrender is voluntary. Surrendering parent or parents shall be advised that (1) the hearing is to surrender parental rights; (2) the hearing is to permanently end the relationship and all contact between parent and child; (3) the action is a relinquishment and termination of parental rights and consent on the part of the biological or legal parent to adoption; and (4) no further notice of adoption proceedings shall be provided to the biological or legal parent if the surrender is accepted by the court.



(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 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.

5:10-8. [5:10-5] Preliminary Hearing

(a) Order. If the court shall enter an order for a preliminary hearing as provided by statute, the plaintiff shall mail a copy of the order, together with a copy of the complaint, to the approved agency appointed by the order to make an investigation and report. At least 5 days prior to the day fixed for the preliminary hearing, the approved agency shall file its report with the court and mail a copy thereof to the plaintiff. The medical histories of the biological parents shall also be submitted to the court and shall be retained in the court's file. If no medical history is available or if the biological parent or parents refuse to complete one, the approved agency shall note that in its report to the court.

(b) Background Checklist and Certification by Approved Agency. The approved agency shall provide to the court a background checklist and certification on a form prescribed by the Administrative Director of the Courts, which shall include criminal history record information and child abuse record information. If the approved agency discovers a pattern of arrests or domestic violence restraining orders against the plaintiffs or other household members over the age of 18 that may impact approval of the home, the form submitted to the court shall include this information. The agency shall certify that, considering all criminal, domestic violence or child abuse records known to the agency, it is in the best interest of the child that the adoption be finalized.

(c) [(b)] Hearing; Notice. At any time during or after the preliminary hearing, the court may require the production of additional testimony, may subpoena additional witnesses, or may direct that notice of the proceeding shall be given to any persons whose interests may be prejudiced or affected by the entry of a judgment of adoption. The court shall direct that notice of the proceeding be given to the [natural parents] biological or

legal parents of the child unless notice has been waived by them, or the court dispenses with notice on proof by affidavit of diligent inquiry establishing that notwithstanding such inquiry the location of the [natural parents] biological or legal parents cannot be ascertained, or unless a court of competent jurisdiction has, on notice to the [natural parents] biological or legal parents, terminated their parental rights. The court may continue the hearing as the situation requires and shall direct the manner in which any required notice shall be given, except that no notice shall be given by publication..

(d) [(c)] Dismissal; Amendment; Right to Object. . . no change.

Note: Source-R. (1969) 4:94-4(a), (b), (c). Adopted as Rule 5:10-5 December 20, 1983, to be effective December 31, 1983; paragraph (c) caption and text amended November 7, 1988 to be effective January 2, 1989; redesignated as Rule 5:10-8, paragraph (a) amended, new paragraph (b) caption and text adopted, former paragraph (b) redesignated as paragraph (c) and amended, and former paragraph (c) redesignated as paragraph (d) July 21, 2011 to be effective September 1, 2011.

5:10-9. [5:10-6] Order Upon Preliminary Hearing

If upon completion of a preliminary hearing the court is satisfied to proceed with the adoption, an order shall be entered reciting the findings required by statute as a basis therefor, fixing a day for final hearing, appointing an approved agency as next friend, unless such appointment shall be dispensed with as provided by statute, and declaring that, from the date of such order:

(a) The rights, duties, privileges and relations theretofore existing between the child and each [natural] biological or legal parent or other custodian or guardian theretofore appointed for such child shall be in all respects at an end;

(b) The child may be known by the name proposed in the complaint, except that the birth record shall not be amended pending entry of judgment;

(c) The plaintiff or the plaintiffs may act in their own names in providing for the health and education of the child; and

(d) The plaintiff or plaintiffs shall not remove the child from this State, other than for vacations or temporary visits, except upon order of the court.

An order entered pursuant to this rule shall be deemed final for the purposes of appeal.

Note: Source-R. (1969) 4:94-5. Adopted as Rule 5:10-6 December 20, 1983, to be effective December 31, 1983; paragraph (c) amended July 13, 1994 to be effective September 1, 1994; redesignated as Rule 5:10-9 and paragraph (a) amended July 21, 2011 to be effective September 1, 2011.

5:10-10. [5:10-7] Petition for Modification or Revocation of an Order

... no change.

Note: Source-R. (1969) 4:94-6. Adopted as Rule 5:10-7 December 20, 1983, to be effective December 31, 1983; redesignated as Rule 5:10-10 July 21, 2011 to be effective September 1, 2011.

5:10-11. [5:10-8] Final Hearing

... no change.

Note: Source-R. (1969) 4:94-7. Adopted as Rule 5:10-8 December 20, 1983, to be effective December 31, 1983; redesignated as Rule 5:10-11 July 21, 2011 to be effective September 1, 2011.

5:10-12. [5:10-9] Judgment of Adoption; Procedures for Closing and Sealing Adoption Records

(a) Judgment. A separate judgment of adoption shall be entered for each adoptee.

(b) [(a)] Filing. . . . no change.

(c) [(b)] Costs. . . . no change.

(d) [(c)] Certified Copies. Prior to sealing the record of the proceedings the clerk shall, upon payment of the appropriate fee, provide the plaintiff, the plaintiff's attorney, the Clerk of the Superior Court, and the approved agency which made the adoptive placement with certified copies of the judgment.

(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.

(f) Sealing of Adoption Records. All records of proceedings related to adoption, including the complaint, judgment and all petitions, affidavits, testimony, reports, briefs, orders and other relevant documents, shall be filed under seal by the clerk of the court and shall at no time be open to inspection or copying unless the court, upon good cause shown, shall otherwise order. An index of all adoption proceedings shall be maintained by the clerk of the court, but no index of adoption proceedings shall be open to inspection or copying or be made public except by order of the court.

(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) provides the court with a Notice of Change. If the adoption occurs out of state, DYFS 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.



5:10-13. Requests to Unseal Adoption Cases; Procedure

(a) The Surrogate shall accept for filing a post-judgment request to unseal an adoption, which request may be by motion or by notarized letter, and shall forward the request and a proposed order to the court. The court may, if necessary, schedule a hearing to consider the request to unseal the adoption.

(b) The court shall determine whether good cause exists to grant the request to unseal the adoption. The court shall provide to the Surrogate the signed court order denying or granting the request to unseal the adoption.

(c) If the court grants the request to unseal the adoption, the Surrogate shall provide a copy of the order unsealing the adoption to the requesting party and shall make available to the requesting party copies of the documents on file as directed by the court's order. If the Surrogate determines that an adoption did not occur in the county in which the request was received, the Surrogate shall send a letter to the requesting party indicating that there is no record of the adoption in that county and that no further action will be taken on the request.

(d) If the court denies the request to unseal the adoptions, the Surrogate shall provide a copy of the court's order denying the request to the requesting party and shall include in the sealed court file, if any, a copy of the written request and the order denying the request to unseal the adoption.

Note: Adopted July 21, 2011 to be effective September 1, 2011.

5:10-14. Domestic Adoptions and Readoptions of Foreign Citizens

(a) Complaint. In all domestic adoptions and readoptions of foreign citizens, a complaint shall be filed conforming to the requirements of R. 5:10-3.

(b) Contents of Complaint. In addition to the requirements of paragraph (a) of this rule, the plaintiff or plaintiffs shall allege in the complaint the following information and shall reference the attachments to the complaint that support this statement:

(1) Specific facts regarding whether the case was processed under the Hague Adoption Convention;

(2) The type of immigration visa that was issued;

(3) Whether the originating foreign country finalized the adoption or granted custody or guardianship for adoption finalization in the United States.

(c) Documents to Accompany Complaint. In addition to the requirements of paragraph (a) of this rule, the complaint shall be accompanied by the following:

(1) One of the following, as applicable:

(A) copy of foreign judgment of adoption together with, if in other than English, an English translation, with each certified to be a true and correct copy of the original by the plaintiff(s) or the attorney of record; or

(B) copy of conveyance of custody or guardianship of the child to the plaintiff or plaintiffs or placement agency for the purpose of adoption, as applicable, together with, if in other than English, an English translation, with each certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(2) Copy of birth certificate and, if in other than English, an English translation of the birth certificate, with each certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(3) Copy of child's immigration visa, certified to be a true and correct copy by the plaintiff(s) or the attorney of record; and

(4) For cases processed under the requirements of the Hague Adoption Convention, a copy of the Hague Adoption Certificate or Hague Custody Declaration, as applicable, certified to be a true and correct copy by the plaintiff(s) or the attorney of record.

Note: Adopted July 21, 2011 to be effective September 1, 2011.

5:10-15. Adoptions of United States Citizens by Residents of Foreign Countries That Are Signatories to the Hague Adoption Convention

(a) The complaint shall allege specific facts as to the applicability of the Hague Adoption Convention and whether plaintiff is seeking a New Jersey adoption or a petition for a Hague Adoption Certificate (HAC) or a Hague Custody Declaration (HCD).

(b) The court shall determine whether the Hague Adoption Convention applies in the country where the child is residing or will reside for purposes of the adoption.

(c) If the Hague Adoption Convention applies to the case, and the court is asked to issue findings and an order supporting a request for the U.S. Department of State to issue a Hague Certificate of Adoption or a Hague Declaration of Custody for the adoption placement, the court must receive sufficient evidence to conclude that the child is eligible for adoption, and find that the placement is in the best interests of the child. The court must receive evidence on all of the following:

(1) The Hague-approved adoption agency or person is accredited by the U.S. Department of State to provide intercountry adoption services for Hague cases;

(2) A child background study has been completed in accordance with the regulations governing Hague adoptions;

(3) The child is eligible for adoption under New Jersey law;

(4) The Hague-approved adoption agency or person has made reasonable efforts to place the child in the United States but was unable to do so, or that an exception to this requirement applies to the case;

(5) The agency has determined that the placement is in the child's best interest;

(6) The home study of the adoptive family was completed, which includes:

(A) information on the plaintiff or plaintiffs, such as identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an inter-country adoption, and the characteristics of the children for whom they would be qualified to care,

(B) confirmation that a competent authority has determined that the plaintiff or plaintiffs are eligible and suited to adopt and has ensured that the plaintiff or plaintiffs have been counseled as necessary, and

(C) the results of the criminal background checks;

(7) The Central Authority of the adoptive family's country of residence has declared that the child will be permitted to enter and reside permanently in the receiving country, and has consented to the adoption;

(8) All appropriate consents have been obtained in accordance with the following standards:

(A) counseling was provided to any biological or legal parent consenting to the adoption,

(B) biological or legal parents were informed of the legal effect of adoption,

(C) such consent was freely given without inducement by compensation,

(D) such consent was not subsequently withdrawn, and

(E) consents were taken only after the birth of the child;

(9) The Hague-approved adoption agency or person has committed to taking all steps to ensure the secure transfer of the child, including obtaining permission

for the child to leave the United States;

(10) The Hague-approved adoption agency or person has agreed to keep the foreign Central Authority informed about the status of the case;

(11) The plaintiff or plaintiffs have agreed to accept custody of the child for purposes of adoption;

(12) The Hague-approved adoption agency or person demonstrates that any contact between the birth family and the adoptive family complies with applicable state law and Hague regulations governing timing of such communications; and

(13) The agency certifies that no one is deriving improper financial gain from the adoption and describes the financial arrangement with the prospective adoptive family.

(d) The court shall make findings relating to the application for the HAC or HCD from the Department of State. To meet the requirements for an HAC or an HCD, the court's findings shall include that:

(1) the adoptive placement is in the child's best interest,

(2) the substantive regulatory requirements set forth in 22 C.F.R. 97.3(a) through (k) have been met, and

(3) the adoption services provider meets the requirements of 22 C.F.R. Part 96.

(e) If the court is satisfied that all Hague Adoption Convention requirements are met, the court shall make findings of fact and order the following:

(1) The child is eligible for adoption;

(2) The grant of custody with respect to the proposed adoption is in the child's best interests; and

(3) The court grants custody of the child to the named family for purposes of adoption, as applicable.

(f) A petition for HAC or HCD shall state specific facts that the plaintiff or plaintiffs intend to finalize in their country of residence or that they will return to New Jersey after the post-placement supervisory period to finalize the adoption in the Superior Court of New Jersey.

Note: Adopted July 21, 2011 to be effective September 1, 2011.

5:10-16. Adoptions of United States Citizens by Residents of Foreign Countries That Are Not Signatories to the Hague Adoption Convention

Adoptions of United States citizens by residents of foreign countries that are not signatories to the Hague Adoption Convention shall conform to the rules for domestic adoptions.

Note: Adopted July 21, 2011 to be effective September 1, 2011.



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. All name checks in adoption matters shall be done through the Judiciary's case management system. If an SBI number is discovered through a fingerprint check, that number shall be provided to the Surrogate to ensure accuracy of the name checks.

Note: Adopted July 21, 2011 to be effective September 1, 2011.

### 5:11. Action for Adoption of Adult

(a) Complaint. In every action for the adoption of an adult, [The] the complaint [shall be verified by the plaintiff and] shall state (1) the name, age and place of residence of the plaintiff and the person to be adopted; (2) the name by which the person to be adopted shall thereafter be known; (3) whether the person to be adopted is possessed of any property, with a full description thereof, if any.

(b) Written Requests to Accompany Complaint. There shall be filed with the complaint a request in writing for the adoption and, if desired, the change of name, which request shall be signed by the person to be adopted and shall be acknowledged before an officer qualified to take acknowledgements of deed.

(c) Consent of Spouse, Civil Union or Domestic Partner. There shall be filed with the complaint a certification by any non-adopting spouse, civil union or domestic partner consenting to the adoption.

(d) Affidavit of Verification and Non-Collusion. There shall be attached to every complaint for adoption an oath or affirmation by the plaintiff(s) that the allegations of the complaint are true to the best of the party's knowledge, information and belief, and that the pleading is made in truth and good faith and without collusion for the causes set forth therein.

(e) Court Hearing. The court may hear the case upon the oral testimony of the parties to the action and of other persons as the court deems necessary.

Note: Source-R. (1969) 4:95. Adopted December 20, 1983, to be effective December 31, 1983; amended July 13, 1994 to be effective September 1, 1994; text amended and redesignated as paragraphs (a), (b), and (e), captions for paragraphs (a), (b), and (e) adopted, new paragraphs (c) and (d) caption and text adopted July 21, 2011 to be effective September 1, 2011.

7:7-7. Discovery and Inspection

(a) Scope. If the government is represented by the municipal prosecutor or a private prosecutor in a cross complaint case, discovery shall be available to the parties only as provided by this rule, unless the court otherwise orders. [In the absence of a municipal or private prosecutor, discovery shall be available to the parties in the manner directed by the court.] All discovery requests by defendant shall be served on the municipal prosecutor, who shall be responsible for making government discovery available to the defendant. If the matter is, however, not being prosecuted by the municipal prosecutor, the municipal prosecutor shall transmit defendant's discovery requests to the private prosecutor in a cross complaint case, pursuant to R. 7:8-7(b). [, or, if there is no prosecutor, the municipal prosecutor shall transmit defendant's court ordered discovery requests to the complaining witness.]

(b) Discovery by Defendant. In all cases [involving a consequence of magnitude or when ordered by the court,] the defendant, on written notice to the municipal prosecutor or private prosecutor in a cross complaint case, shall be allowed to inspect, copy, and photograph or to be provided with copies of any relevant:

- (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

(c) Discovery by the State. In all cases [involving a consequence of magnitude or when ordered by the court,] the municipal prosecutor or the private prosecutor in a cross complaint case, on written notice to the defendant, shall be allowed to inspect, copy, and photograph or to be provided with copies of any relevant:

(1) ...no change

(2) ...no change

(3) ...no change

(4) ...no change

(5) ...no change

(d) Documents Not Subject to Discovery. ...no change

(e) Reasonableness of Cost. Upon motion of any party, the court may consider the reasonableness of the cost of discovery ordered by the court to be disseminated to the parties. If the court finds that the cost charged for discovery is unreasonable, the court may order the cost reduced or make such other order as is appropriate.

(f) [(e)] Protective Orders. ... no change to text

(g) [(f)] Time and Procedure. ... no change to text

(h) [(g)] Continuing Duty to Disclose; Failure to Comply. ... no change to text

Note: Source-Paragraph (a): new; paragraph (b): R. (1969) 7:4-2(h), 3:13-3(c); paragraph (c): R. (1969) 7:4-2(h), 3:13-3(d); paragraph (d): R. (1969) 7:4-2(h), 3:13-3(e); paragraph (e): R. (1969) 7:4-2(h), 3:13-3(f); paragraph (f) new; paragraph (g): R. (1969) 7:4-2(h), 3:13-3(g). Adopted October 6, 1997 effective February 1, 1998; paragraph (c) amended July 5, 2000 to be effective September 5, 2000; paragraph (f) amended July 16, 2009 to be effective September 1, 2009; paragraphs (a), (b), and (c) amended, new paragraph (e) caption and text adopted, former paragraphs (e), (f), and (g) redesignated as paragraphs (f), (g), and (h) July 21, 2011 to be effective September 1, 2011 .

7:7-11. Use of Acting Judges Pursuant to Standing Assignment Judge Order

(a) As to any pretrial application made when court is not in session for the issuance of a telephonic arrest warrant, R. 7:2-1(e); for the issuance of a Temporary Restraining Order (TRO), R. 5:7A; for the issuance of a search warrant, R. 3:5-3(a) or R. 7:5-1(a); or for the setting of bail, R. 3:26-2(a) and R. 7:4-2(a), if no judge of that court is able to hear the application, an acting judge may be contacted pursuant to a standing order entered by the Assignment Judge that prescribes the sequence in which resort is made to any such acting judges.

(b) An acting judge handling an application pursuant to paragraph (a) of this rule should make a record of the reason the application is not being handled by the court to which the application was first submitted.

Note: Adopted July 21, 2011 to be effective September 1, 2011.

7:9-1. Sentence

(a) ... no change

(b) Statement of Reasons – Criminal Code Cases. In disorderly and petty disorderly cases and indictable fourth degree cases within the jurisdiction of the municipal court, at [At] the time the sentence is imposed[,] the court shall state its reasons for imposing the sentence, including the findings respecting the criteria prescribed by N.J.S.A. 2C:44-1 to N.J.S.A. 2C:44-3, for withholding or imposing imprisonment, fines or restitution and pursuant to N.J.S.A. 2C:51-2 for ordering or denying forfeiture of public office, position, or employment. The court shall also state its factual basis for its finding of particular aggravating or mitigating factors affecting sentence.

(c) Statement of Reasons—Non-Criminal Code Cases. In non-criminal code cases involving a consequence of magnitude, at the time the sentence is imposed the court shall state its reasons for imposing sentence, including the findings for withholding or imposing imprisonment, driver's license suspension, fines, or restitution.

(d) [(c)] Probation. ... no change to text

(e) [(d)] Probation and Suspended Sentence ... no change to text

Note: Source-Paragraph (a): R. (1969) 7:4-6(a); paragraph (b): R. (1969) 7:4-6(c); paragraph (c): R. (1969) 3:21-4(c); paragraph (d): R. (1969) 7:4-6(e) and R. (1969) 3:21-7. Adopted October 6, 1997 to be effective February 1, 1998; paragraph (b) caption and text amended, new paragraph (c) adopted, former paragraphs (c) and (d) redesignated as paragraphs (d) and (e) July 21, 2011 to be effective September 1, 2011.

7:14-3. Court Calendar [; Attorneys ]

(a) Court Calendar. [On each hearing day, the court shall follow as closely as possible, the following order:

- (1) applications for adjournment;
- (2) unlitigated motions;
- (3) arraignments;
- (4) guilty pleas;
- (5) litigated motions;
- (6) contested matters with an attorney;
- (7) other contested matters.]

At each court session, to the extent possible the court shall give priority to attorney matters that are summary in nature. Other cases should be called in the following order, subject to the court's discretion:

- (1) requests for adjournments;
- (2) guilty pleas and first appearances;
- (3) pretrial conferences;
- (4) uncontested motions;
- (5) contested matters with attorneys;
- (6) noncompliance with time payment issues;
- (7) contested matters without attorneys;
- (8) matters to be placed on the record.

[(b) Appearances of Attorneys. Appearances by attorneys shall be entered promptly with the court or municipal court administrator. Unless the appearance is entered, the attorney shall not receive priority on the trial list.]

(b) Scheduling of Cases. Courts shall stagger the scheduling of cases, where necessary, in order to limit inconvenience to all parties.

Note: Source – R. (1969) 7:10-3. Adopted October 6, 1997 to be effective February 1, 1998; caption amended, paragraph (a) amended, former paragraph (b) deleted, and new paragraph (b) adopted July 21, 2011 to be effective September 1, 2011.



**[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:

vs.	Plaintiff,          Defendant.
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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.

**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? [ ] Yes [ ] No. 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) \_\_\_\_\_

**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 [spouse] other party.

**1. LAST YEAR'S INCOME**

	Yours	Joint	[Spouse or Former Spouse] 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 – <u>ATTACH</u> pay stubs)	\$ _____	\$ _____
Commissions and bonuses, etc., are:		
<input type="checkbox"/> included <input type="checkbox"/> not included* <input type="checkbox"/> not paid to you.		

\*ATTACH details of basis thereof, including, but not limited to, percentage overrides, timing of payments, etc.

ATTACH 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 \_\_\_\_\_

Number of Weeks \_\_\_\_\_

1. GROSS EARNED INCOME: \$ \_\_\_\_\_

2. TAX DEDUCTIONS: (Number of Dependents: \_\_\_\_\_)

a. Federal Income Taxes

a. \$ \_\_\_\_\_

b. N.J. Income Taxes

b. \$ \_\_\_\_\_

c. Other State Income Taxes

c. \$ \_\_\_\_\_

d. FICA

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. \$ \_\_\_\_\_ ☐

b. Life Insurance

b. \$ \_\_\_\_\_ ☐

c. Union Dues

c. \$ \_\_\_\_\_ ☐

d. 401(k) Plans

d. \$ \_\_\_\_\_ ☐

e. Pension/Retirement Plans

e. \$ \_\_\_\_\_ ☐

f. Other Plans—specify

f. \$ \_\_\_\_\_ ☐

g. Charity

g. \$ \_\_\_\_\_ ☐

h. Wage Execution

h. \$ \_\_\_\_\_ ☐

i. Medical Reimbursement (flex fund)

i. \$ \_\_\_\_\_ ☐

j. Other:

j. \$ \_\_\_\_\_ ☐

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:

1. How often are you paid? \_\_\_\_\_
2. What is your annual salary? \$ \_\_\_\_\_
3. Have you received any raises in the current year? ☐ Yes ☐ No. If yes, provide the date and the gross/net amount.  
\_\_\_\_\_
4. 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:  
\_\_\_\_\_
5. Did you receive a bonuses, commissions, or other compensation, including distributions, taxable or non-taxable, in addition to your regular salary during the current or immediate past calendar year? ☐ Yes ☐ No If yes, explain and state the date(s) of receipt and set forth the gross and net amounts received:  
\_\_\_\_\_
6. Do you receive cash or distributions not otherwise listed? ☐ Yes ☐ No If yes, explain. \_\_\_\_\_
7. Have you received income from overtime work during either the current or immediate past calendar year? ☐ Yes ☐ No If yes, explain. \_\_\_\_\_
8. 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. \_\_\_\_\_
9. 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. \_\_\_\_\_
10. 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. \_\_\_\_\_
11. List the names of the dependents you claim: \_\_\_\_\_
12. Are you paying or receiving any alimony? ☐ Yes ☐ No. If yes, how much and from or to whom? \_\_\_\_\_
13. 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. \_\_\_\_\_
14. Is there a wage execution in connection with support? ☐ Yes ☐ No If yes explain. \_\_\_\_\_
15. 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 \_\_\_\_\_
16. 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 [Marital] Life Style Family, including _____ children	Current Life Style Yours and _____ children
<b>SCHEDULE A: SHELTER</b>		
<u>If Tenant:</u> .....		
Rent.....	\$ .....	\$ .....
Heat (if not furnished).....	\$ .....	\$ .....
Electric & Gas (if not furnished).....	\$ .....	\$ .....
Renter's Insurance.....	\$ .....	\$ .....
Parking (at Apartment).....	\$ .....	\$ .....
Other charges (Itemize).....	\$ .....	\$ .....
<u>If Homeowner:</u> .....		
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.....	\$ .....	\$ .....
Maintenance.....	\$ .....	\$ .....
Repairs.....	\$ .....	\$ .....
Other Charges (Itemize).....	\$ .....	\$ .....
<u>Tenant or Homeowner:</u> .....		
Telephone.....	\$ .....	\$ .....
Mobile/Cellular Telephone.....	\$ .....	\$ .....
Service Contracts on Equipment.....	\$ .....	\$ .....
Cable TV.....	\$ .....	\$ .....
Plumber/Electrician.....	\$ .....	\$ .....
Equipment & Furnishings.....	\$ .....	\$ .....
Internet Charges.....	\$ .....	\$ .....
Other (itemize).....	\$ .....	\$ .....
<b>TOTAL</b>	<b>\$ .....</b>	<b>\$ .....</b>

**SCHEDULE B: TRANSPORTATION**

Auto Payment.....	\$ .....	\$ .....
Auto Insurance (number of vehicles: ).....	\$ .....	\$ .....
Registration, License.....	\$ .....	\$ .....
Maintenance.....	\$ .....	\$ .....
Fuel and Oil.....	\$ .....	\$ .....
Commuting Expenses.....	\$ .....	\$ .....
Other Charges (Itemize).....	\$ .....	\$ .....
<b>TOTAL</b>	<b>\$ .....</b>	<b>\$ .....</b>

SCHEDULE C: PERSONAL.....

Joint [Marital] 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) .....	\$ .....	\$ .....
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**

**STATEMENT OF ASSETS**

Description	Title to Property ([H, W] P, D, J) <sup>1</sup>	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	Date of Evaluation Mo./Day/ Yr.
1. Real Property				
2. Bank Accounts, CD's				
3. Vehicles				
4. Tangible Personal Property				
5. Stocks and Bonds				
6. Pension, Profit Sharing, Retirement Plan(s), 401(k)s, etc. [list each employer]				
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 ([H, W] P. D, J)	If you contend liability should not be considered in equitable distribution, 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)



## **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.

**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: \_\_\_\_\_

## **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. \_\_\_\_\_

[Appendix XIII – Certification of Child Support Arrears (deleted)]

Note: Appendix XIII (“Certification of Child Support Arrears”) deleted July 21, 2011 to be effective September 1, 2011.

[Appendix XIV – Financial Statement for Summary Support Actions (deleted)]

Note: Appendix XIV (“Financial Statement for Summary Support Actions”) deleted July 21, 2011 to be effective September 1, 2011.

[Appendix XVI – Uniform Summary Support Order (R. 5:7-4) (deleted)]

Note: Appendix XVI (“Uniform Summary Support Order (R. 5:7-4)”) deleted July 21, 2011 to be effective September 1, 2011.

[Appendix XVII – Temporary Support Order (R. 5:7-4) (deleted)]

Note: Appendix XVII (“Uniform Summary Support Order (R. 5:7-4)”) deleted July 21, 2011 to be effective September 1, 2011.

[Appendix XXIV – Confidential Litigant Information Sheet (R. 5:4-2(g)) (deleted)]

Note: Appendix XXIV (“Confidential Litigant Information Sheet (R. 5:4-2(g))”) deleted July 21, 2011 to be effective September 1, 2011.

## APPENDIX XXVI

### GUIDELINES FOR THE COMPENSATION OF MEDIATORS

#### SERVING IN THE CIVIL AND FAMILY ECONOMIC MEDIATION PROGRAMS

These guidelines apply to the compensation that may be charged by all mediators serving in the Statewide Mediation Program for Civil, General Equity, and Probate cases, and, where applicable, to mediators serving in the Family Economic Mediation Program.

1. First Two Hours Free: Mediators on the court's Rosters of Civil and Family Mediators shall serve free for two hours in a mediation that is court-ordered. The two free hours shall be divided equally between (a) reasonable preparation time, administrative tasks, the organizational telephonic conference, and (b) an initial mediation session. Travel time may not be included as part of the free first two hours. Unless otherwise provided in these guidelines, no fee, retainer or other payment may be charged or paid prior to the conclusion of the two free hours.
2. Time Spent Before Initial Mediation Session: At the beginning of the initial mediation session, the mediator shall disclose to the parties in writing on a form prescribed by the Administrative Director of the courts the amount of preparation time the mediator has spent to that point on [in handling] the case [thus far and must announce when the free mediation time will be over]. If the amount of preparation time [spent] by the mediator [will exceed] exceeds one hour [two hours] and if the mediator intends to charge the parties for that additional preparation time beyond the one free hour in accordance with Guideline 14 should

they agree to continue with mediation on a paying basis, then the mediator in that written disclosure must so advise the parties [of this fact] prior to commencing the initial mediation session. Any such charged additional preparation time will be billed by the mediator at the mediator's market rate as set forth on the court's Mediation Roster.

3. Substitute Mediators: In the event that the court-appointed mediator has a conflict of interest or is otherwise unable to serve, the court shall appoint a substitute mediator who is bound by all of the provisions of the court order, including providing the first two hours of service free.
4. [Alternate] Non-Roster Mediators: [In the Civil/General Equity/Probate Mediation Program, if] If the parties select [an alternate] a mediator who is not on the court's rosters, [from the approved roster, other than the mediator appointed by the court,] that mediator may negotiate a [charge a negotiated rate] fee and need not provide the first two hours of service free.
5. Cost of Organizational Conference Call: The out-of-pocket cost of the organizational conference call shall be shared equally by the parties, unless expenses have been waived or reallocated in accordance with Guideline 9 below.
6. Non-Party Participation: If a non-party is invited to participate in the mediation, which participation must be agreed to by the parties and the mediator, the mediator shall obtain the participating non-party's written consent as to confidentiality and any other matters requested by the parties, as facilitated by the mediator.



7. Continuing the Mediation: At the beginning of the initial in-person mediation session, the mediator shall disclose to the parties in writing on a form prescribed by the Administrative Director of the Courts the specific time at which the free mediation will conclude. That written disclosure shall advise the parties that any mediation continued beyond that time will be billed by the mediator at the mediator's market rate as set forth on the court's Mediation Roster. At the expiration of the free first two hours as previously defined, including at least a one hour in-person mediation session, any party may elect not to continue with the mediation, which decision must be immediately communicated orally or in writing to the mediator and all parties. In such situation, despite the fact that one or more parties have opted out of mediation, mediation can continue as to those parties desiring to continue to the extent that the mediation can be meaningful without participation by the party or parties that opted out. Only those parties who continue with the mediation beyond the free [first two] hours shall be responsible for payment of the mediator's fee and expenses, as set forth in Guideline 9. [All parties opting to continue mediation after the first two hours as previously defined, shall thereafter equally share the fees of the mediator at the mediator's market rate.]
8. Newly Added Parties: The free first two hours are not extended by reason of the addition of a new party to the case. If a new party enters the case after the expiration of the two free hours, that party may agree to participate in the mediation on the same terms as the rest of the parties on a fee-sharing basis.

9. Allocation of Mediation Fees and Expenses: The parties who participate in mediation beyond the "free hours" component shall share the costs and fees of the mediator (a) equally, (b) as determined by the mediator, or (c) as otherwise agreed, subject to an application to the court for an equitable reallocation of the fees. The mediator shall waive the share of the fee allocable to an indigent party as defined in R. 1:13-2(a).
10. Mediator's Expenses: Unless the parties otherwise agree in writing in advance following full disclosure, mediators may not charge for travel costs or time, use or rental of facilities, paralegal expenses, food, photocopying, postage, conference calls or other expenses. Note: The parties are responsible for the costs of the organizational conference call as provided in Guideline 5 above.
11. Failure to Appear or Cancel Timely: Parties who previously agreed to continue in mediation and were duly provided with notice of the mediation session but who failed to appear for the mediation session or who cancel the mediation session less than 24 hours in advance are nonetheless responsible for payment of their share of the mediator fees and expenses as allocated pursuant to Guideline 9 above. In the event that a mediation session is canceled because of a party's nonappearance or untimely cancellation, the mediator still may charge a fee; such fee may either be agreed on by the parties in advance or, if not, it shall be the mediator's usual charge for one hour's service and shall be charged to the party who failed to appear or who cancelled untimely.
12. Submission of Mediator's Bills: In the absence of other payment arrangements, mediators should bill the parties following each mediation session for which

payment is due. Generally, a mediation session should not begin unless the parties are current in their payments for previous sessions. [No retainer fee or advance may be requested by the mediator at any time.] Counsel have a responsibility to facilitate prompt payment of mediator fees.

13. Location of Mediation Sessions: Mediators shall provide space for mediation sessions without charge, unless either the facilities will not accommodate the number of participants or appropriate multiple breakout rooms, or there are other special needs or circumstances. In such event, the parties will be responsible for appropriate facility arrangements for the mediation sessions. Unless the parties agree otherwise, mediation sessions shall be held in neutral facilities and not in the offices of an attorney representing one of the parties. The site of the mediation session shall be in the county of venue or in a contiguous county in reasonable proximity and not more than 40 miles to the parties or to the courthouse of venue, unless all parties consent otherwise.

14. Pre-Mediation Submissions and Preparation: Mediators can limit the length of the parties' pre-mediation submissions. If a party exceeds the limitations, the mediator has the discretion not to consider any excess materials unless otherwise agreed between the mediator and parties. The amount of time that the mediator spends in pre-mediation preparation should be reasonable in light of the complexity of the issues and the amount at stake. In a complex case, if the parties agree that it is reasonable that preparation, initial administration and the organizational telephone conference should exceed one hour, they may agree to

compensate the mediator for such time in excess of one hour before an in-person mediation session is held.

15. Collection of Unpaid Mediator's Bill/Failure to Mediate In Accordance with Order: [ If the court receives a written report (sent to the CDR Point Person in the county of venue or to the assigned judge in the Family Part) that a mediator has not been timely paid or that the mediator and/or a party has incurred unnecessary costs or expenses due to the failure of a party and/or counsel to participate in the mediation process in accordance with the Order of Referral to Mediation, the court will issue a sua sponte Order to Show Cause why the mediator's bill should not be paid or why a consequence, e.g., imposition of costs or fees, should not be imposed by the court.] If a mediator has not been timely paid or a mediator and/or a party has incurred unnecessary costs or expenses because of the failure of a party and/or counsel to participate in the mediation process in accordance with the Order of Referral to Mediation, the mediator and/or party may bring an action to compel payment in the Special Civil Part of the county in which the underlying case was filed.

Note: Appendix XXVI adopted July 27, 2006 to be effective September 1, 2006; Guideline 15 amended June 15, 2007 to be effective September 1, 2007; caption and introductory text amended, and Guidelines 2, 4, 9, 12, and 15 amended July 16, 2009 to be effective September 1, 2009; Guidelines 1, 2, 4 (including caption), 7, 10, 12 and 15 amended July 21, 2011 to be effective September 1, 2011.