

#004

SUPERIOR COURT OF NEW JERSEY  
ESSEX VICINAGE

CHAMBERS OF  
WALTER KOPROWSKI, JR., P.J.Ch.



CHANCERY DIVISION-PROBATE PART  
WILENTZ JUSTICE COMPLEX  
212 WASHINGTON STREET, 8<sup>th</sup> FLOOR  
NEWARK, NEW JERSEY 07102  
(973) 776-9520

December 1, 2017

VIA E-MAIL  
[Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov)

Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts  
Attn: Comments on Filing Particular Categories of Cases  
Hughes Justice Complex, P.O. Box 037  
Trenton, NJ 08625-0037

Re: Recommendations to Implement Policies Regarding the Filing of Particular Categories of Cases

Dear Judge Grant:

On behalf of the Probate Part Judges Committee of the Conference of General Equity Presiding Judges (the Committee), please accept for consideration this comment on the above-referenced report of the Working Group on the Clarification of Divisions – Civil, Family and General Equity. In particular, the Committee has significant concerns related to the recommendations found in section K of the report, “Post-Judgment Relief Relating to Incapacitated Adult Child of Parents Subject to Family Part Order,” and the corresponding proposed Rule 4:3-1(a)(4)(K). The proposed subparagraph of the rule states:

Where issues including custody, parenting time/visitation, and support of an unemancipated minor child are addressed in a Chancery Division, Family Part order, and a judgment of incapacity and appointment of guardian are entered after the child reaches majority, modification or enforcement of such terms in the Family Part order shall be filed and heard in the Chancery Division, Probate Part. However, if child support or custody/parenting time/visitation issues affecting child support are present, those matters shall be heard in the Chancery Division, Family Part until the incapacitated child turns age 23.

The concerns of the Committee are centered around applications for modification or enforcement of Family Part support orders in which either parent has other dependents. First, the proposed rule could cause confusion among litigants, who may file concurrent applications in both the Probate Part (in relation to the incapacitated adult child) and the Family Part (in relation to other unemancipated minor children). In such instances, conflicting orders could be entered by the respective judges, which could raise res judicata concerns and otherwise create chaos for the parties.

Second, a number of Probate Part judges have never been assigned to the Family Part, and thus lack experience with the New Jersey Child Support Guidelines, the doctrine of changed circumstances, and other nuances of New Jersey family law. For example, an application for conversion of child support to financial maintenance for an incapacitated adult child who has reached 23 years of age may impact child support for unemancipated minor children awarded in the same Family Part order. A Probate Part judge not well versed in the doctrine of changed circumstances could raise or lower the amount of financial maintenance awarded for an incapacitated adult child, which inadvertently could affect the amount of money available for child support for other children. In matters in which either parent has dependent children from other relationships, computations of child support involving the Other Dependent Deduction would add additional complexity to the judge's analysis. While Family Part judges have specific expertise in these areas and can ably make determinations as to financial maintenance and/or child support in relation to all children involved, Probate Part judges who lack such expertise may fail to reach the appropriate determinations.

Therefore, the Committee respectfully recommends that matters related to modification or enforcement of Family Part support orders related to an incapacitated adult child be heard in the Family Part when either parent has other dependents. The Committee suggests the following revision to the proposed subparagraph:

Where issues including custody, parenting time/visitation, and support of an unemancipated minor child are addressed in a Chancery Division, Family Part order, and a judgment of incapacity and appointment of guardian are entered after the child reaches majority, modification or enforcement of such terms in the Family Part order shall be filed and heard in the Chancery Division, Probate Part. However, if child support or custody/parenting time/visitation issues affecting child support are present, those matters shall be heard in the Chancery Division, Family Part until the incapacitated child turns age 23. Notwithstanding the foregoing, when an application is filed relating to support of an incapacitated child over the age of 23 and either parent remains subject to a Family Part support or financial maintenance order related to other dependents, the support issue for the incapacitated child shall be determined in the Family Part.

Thank you for your consideration.

Very truly yours,



Hon. Walter Koprowski, Jr., P.J.Ch.  
Chair, Probate Part Judges Committee

cc: Probate Part Judges Committee  
Kevin M. Wolfe  
Kristi Jasberg Robinson  
Alexandra Hayes