

ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY
RICHARD J. WILLIAMS, J.A.D.
ADMINISTRATIVE DIRECTOR OF THE COURTS
September 25, 2001

MEMORANDUM Surrogates

TO: Richard J. Williams

FROM: Rules Relaxation Related to September 11, 2001 Declaration of

SUBJECT: Death and Other Related Actions

The Chief Justice has entered an order relaxing certain of the Court Rules that relate to declaration of death actions for individuals who perished on September 11, 2001. A copy of the Order is attached. The relaxation provisions include:

The minimum return date set out in Rule 4:93-2 (thirty days) may, in the discretion of a Superior Court Judge, be reduced.

The requirement of Rule 4:93-2 that notice of the declaration of death proceeding is published once in a newspaper of general circulation is waived.

Since testimony in open courts may be traumatic for some families, the Court has relaxed the need for oral testimony required by Rule 4:93-4.

The Court has relaxed Rule 4:93-5 to permit an action for a declaration of death and an action for estate administration, either testate or intestate, to proceed in the same action. The Supreme court has waived fees for these applications.

These rule relaxations will allow traumatized families quickly, and with minimal entanglement with the legal process, to arrange for the judicial determinations that are a necessary step to begin healing.

To accommodate these families further, the AOC has developed a pleading packet that includes three court-related actions that families affected by the events of September 11, 2001 are likely to require. The packet to be distributed to individuals includes a three-count complaint containing (1) a declaration of death count for an individual presumed dead because of the events of September 11, 2001; (2) a count to have the individual's Last Will and Testament probated and an Executor or Executrix appointed, or, if the individual died intestate, the appointment of a General Administrator; and (3) a count allowing for the appointment of a trustee for a missing person's estate to permit immediate access to certain of the decedent's assets needed for the care and maintenance of his or her dependents during the pendency of the action. A more complete packet, intended for use by Surrogates, attorneys, and others assisting litigants, also contains an order to show cause, an order appointing a trustee with limited authority for control of a missing person's estate, an order appointing guardian ad litem, a proof of service and a judgment of declaration of death and admitting the decedent's last will and testament to probate and granting letters testamentary or appointing a general administrator.

The Supreme Court is requesting the Surrogates to offer their assistance in helping families of victims complete these forms or in referring them to appropriate sources of such assistance. Where Surrogates are not able to provide such assistance with their staff, they should so advise the Assignment Judge, who will address the issue in that vicinage.

The Court will announce that the packets will be available in all twenty-one county Surrogates' Courts and that Surrogates are being requested to help each applicant fill out these forms or refer the families for appropriate assistance.

The Surrogates' help in this endeavor is critical. We ask that the Surrogates present these applications to the vicinage judge designated by the Assignment Judge to handle these applications immediately. Typically, this will be the probate judge. If the final judgment also includes the appointment of a personal representative of the estate, the family should be instructed to return to the Surrogate to qualify, where the Court is confident the families will receive the highest level of consideration and service.

You can address any questions to Kevin M. Wolfe, Esq., Civil Practice Division, 609-292-8470.