

**PRO-SE LITIGANT MOTION PACKET
CHANCERY DIVISION – PROBATE
CAPE MAY COUNTY**

ESTATES

Adversary – Your adversary in a law suit is the person or persons whose position is opposite to you. In a case which there is only a plaintiff and a defendant and you are the plaintiff, your adversary is the defendant. Likewise, if you are the defendant, your adversary is the plaintiff. In this packet, service on your adversary means service on the attorney(s) representing your adversary or adversaries and/or on any party(ies) not represented by counsel.

Brief – A Brief is a written argument submitted to the court in which you present the facts and the history of your case and the legal argument supporting the request you have made to the court in your motion.

Calendar motion – A calendar motion asks the court for a ruling related to the scheduling or timing of your case, such as a motion for more time to file papers. Before filing a calendar motion, the moving party must try to resolve the matter with the other party(ies) in the case.

Certification – a certification is a written statement you make when you file your papers with the court in which you state that all the information contained in the papers is true to the best of your knowledge.

Discovery End Date – The discovery end date is the date assigned by the court by which discovery in your case must be completed.

Discovery Motion – A discovery motion asks the court for a ruling on some phase of the discovery process such as a motion for more specific answers to Interrogatories, a motion to compel depositions. Before filing a discovery motion, the moving party must try to resolve the matter with the other party in the case.

Docket Number – The docket number is the number the court assigns to your case so that it may be identified and located easily. Once you have a docket number, you must include it on all your communications with the court.

Motion – A motion is an application to the court for a specific order or ruling to be made in favor of the person making the motion (the movant).

Motion Day – Courts hear motions on specified days (usually Fridays) on the court calendar called motion days. A schedule of this court's motion days can be obtained from the court staff or on the Internet at the Judiciary's website at www.njcourtsonline.com

Movant or moving party – The movant or moving party is the person who is bringing the motion.

Notice of Motion – A notice of motion is the form used to inform the court and all opposing parties that the moving party is seeking a specific ruling or order from the court.

Oral argument – Oral argument refers to the appearance in court by the parties to present their positions to the judge in person. Either side may request oral argument, but the decision on whether there will be oral argument is up to the judge. If oral argument is not requested by either of the parties or the judge, the motion will be decided "on the papers".

Pro Se – Pro se means by oneself. A pro se litigant represents him or herself in court without the aid of counsel.

Proof of Mailing – Proof of mailing is the form in which you provide the dates and the method you used to give the other parties copies of the papers that you filed in court.

Proposed Form of Order – A proposed order is a form that the judge can use to either grant or deny the relief sought in the motion. Every motion must be accompanied by a proposed form of order.

Return date – The return date is the date on which the court will consider the motion. If you request oral argument, you must appear before the judge. If no oral argument is requested, the matter will be decided "on the papers". That is, the judge will decide the motion on what has been submitted in the moving papers and in the opposition papers, without having anyone appear in court.

Summary judgment – A motion for summary judgment asks the court to resolve the case in the moving party's favor without a trial because there is no dispute over the facts of the case and the law supports the moving party's position.

OVERVIEW

This packet contains information and sample forms which may be utilized by you in filling various documents with the court. **IT IS BY NO MEANS ALL INCLUSIVE**. Aside from this packet of information, there are New Jersey Court Rules, Statutes and cases which you will be responsible for researching depending upon the particular action you wish to file.

A “**Pro-Se Litigant**” is someone who is representing him/herself in court without the representation of an attorney. **By choosing to represent yourself, you are responsible for following the New Jersey Court Rules just as an attorney would be.** The forms that are included in this packet may be used by you if you think they are helpful. If you anticipate using these forms more than once, it would be a good idea to make several copies and retain them for future use.

As a general rule, the burden is on you, acting as your own attorney, to know how to proceed in court. While the Judge’s Law Clerk is available to answer procedural questions, **THE JUDGE’S LAW CLERK CANNOT GIVE YOU LEGAL ADVICE AND CANNOT PROVIDE YOU WITH INFORMATION WITH RESPECT TO THE LAW GOVERNING A PARTICULAR ACTION.**

INTRODUCTION – “HOW TO FILE A MOTION”

In general, the court will only take action when requested to do so by a party. Parties may ask the court to take specific actions by filing a Motion. The Motion offers each party an opportunity to express their opinion why the court should or should not take action as requested in the Motion. The party that files the Motion is called the “**Movant**”. The responding party is called the “**Respondent**”.

The following paragraphs will help you understand the procedural requirements for filing a Motion. As mentioned in the “Overview”, you should also refer to the Rules Governing the Courts in New Jersey, as well as any other relevant legal reference books that may be found in the **Legal Library** located at the Cape May County Courthouse, 9 North Main Street, Cape May Court House, New Jersey.

INSTRUCTIONS

1. Complete the Notice of Motion (**Document M-1**). Be sure to include the name of the case and the docket number. In addition, include the names and addresses of those parties to whom you are sending the Motion. You must designate the “**return date**” of your Motion. The “**return date**” is the date on which the Judge will consider the Motion. Probate Motions are heard on Thursdays. (Please call 609-463-6666 for specific dates). You should be certain to sign and date the form.

2. Complete the Certification (**Document M-2**). You may use an additional blank paper if necessary. A “**Certification**” is a statement of facts that provides the basis for the relief you are seeking. In addition, you may include a “**Legal Brief**”. A Legal Brief sets forth the legal or equitable basis for your claim. This is your opportunity to set forth statutes, cases and other sources to support the relief requested in your Motion.
3. Complete the top portion of the “**Order**” (**Document M-3**). The Judge may or may not sign this Order. No matter what the outcome is, the Judge will enter an Order. Most of the time, the Judge prepares his own Order and will not use the form Order.
4. The original Motion papers, together with a check made payable to “**The Surrogate of Cape May County**” is to be filed with:

Clerk of Superior Court, Probate Division
Cape May County Surrogate’s Office
4 Moore Road, DN 207
Cape May Court House, New Jersey 08210

The filing fees for Motions are as follows:

\$15.00	Motion
\$15.00	Cross-Motion

5. The Notice of Motion (**Document M-1**) has **3** choices with respect to the manner in which you would like your Motion to be heard. If you choose “**oral argument**”, that means that you are requesting a hearing and you will be required to appear in court. All parties will have the opportunity to present their case in court. The court will notify you of the date and time your Motion will be heard. In the event any opposing party responds to your Motion, they will also have the right to request oral argument. You may also “**waive**” your right to oral argument and have the court decide your Motion without requiring an appearance in court. You should be certain to check the appropriate box on the Notice of Motion form (**Document M-1**). Even though you may request oral argument or request that the matter be heard without having to appear in court, ultimately, it is the Judge’s decision on how the Motion will be heard.
6. Send a copy of your Notice of Motion and all supporting documents, including the form titled “**How to Respond to a Motion**” to all parties by regular mail and certified mail. If an attorney is involved, you do not need to send the documents by certified mail, only by regular mail.

7. **BE CERTAIN TO KEEP A COPY FOR YOUR RECORDS.** The green return receipt card (with the docket number on it) is to be filed with the Clerk of Superior Court, Probate Division. **ANY DOCUMENTS FILED WITH THE COURT MUST ALSO BE SENT TO ALL OTHER PARTIES.**
8. Pursuant to New Jersey Court Rules, Motions should be filed with the court and served at least **16 days** before the return date specified in the Notice of Motion (Document M-1). The Judge may consider hearing a Motion on shorter notice (less than **16 days** after service), if there is an emergency that the Judge feels justifies the Motion being heard on short notice. If your Motion is for Summary Judgment, the Motion must be served not less than **28 days** before the return date.
9. Any opposition to your Motion must be filed with the court and provided to you not less than **8 days** before the return date. (*If your Motion is for Summary Judgment, opposition must be filed and provided to you **10 days** before the return date.*)
10. **THE COURT CANNOT PROVIDE LEGAL ADVICE.** If you wish to consult an attorney, you may contact the Cape May County Bar Association Lawyer Referral Service at (609) 463-0313. If you cannot afford an attorney, you may contact South Jersey Legal Services at 609-465-3001.

HOW TO RESPOND TO A MOTION

INTRODUCTION

In general, the court will only take action when requested to do so by a party. A party may ask the court to take specific action by filing a Motion. The Motion offers each party an opportunity to express their opinion why the court should or should not take the action requested in the Motion. The party that files the Motion is called the “**Movant**”. The party responding to the Motion is called the “**Respondent**”.

The following paragraphs will help you understand the procedural requirements for responding to a Motion filed by another party. A response is also referred to as “**Opposition**”. You should refer to the Rules Governing the Courts in New Jersey, specifically **Rule 1:6-3**, as well as any other relevant legal reference books that may be found in the **Legal Library** located at the Cape May County Courthouse, 9 North Main Street, Cape May Court House, New Jersey.

INSTRUCTIONS

1. **Document M-2** (“Certification” must be completed when responding to a Motion. You may use additional sheets of paper if necessary. A “**Certification**” is a statement of facts that provides the basis for the relief you are seeking. You may attach documents, photographs, etc. to your Certification, however, those documents must be referenced in your Certification by indicating, for example, “*Attached as Exhibit A is ...*”
2. You should also include a legal “**Brief**” which states the legal or equitable basis for your opposition to the Movant’s Motion. This is your opportunity to set forth statutes, cases or other sources that support your opposition to the Motion.
3. If you intend to file a “**Cross-Motion**” to Movant’s Motion, you should refer to the portion of this packet that deals with the instructions on filing a Motion. The fee for filing a “**Cross-Motion**” is \$15.00. Checks or money orders should be made payable to “**Surrogate of Cape May County**”.
4. “**Oral Argument**” is a hearing in which each side presents their respective positions to the Judge. If the Judge schedules oral argument in your case, you will be notified by the court and you must appear at the courthouse on the date of the hearing. The court will assign a specific time **2 days** before the hearing date.

5. Pursuant to the New Jersey Court Rules, Motions filed by the “**Movant**” must be received by the court and you, as the “**Respondent**” at least **16 days** prior to the date indicated on the Notice of Motion. If the Motion is for Summary Judgment, the Motion must be filed and served no later than **28 days** before the return date.
6. Motions may be heard on shorter notice if there is an emergency that justifies a shorter date. If such a request is made, the “**Movant**” must explain in his/her Certification why the Motion should be heard on short notice. **The Judge may or may not grant that request.**
7. Opposition to a Motion (filed by you, the “**Respondent**”) must be served on the “**Movant**” and the court no less than **8 days** before the return date. If the Motion is for Summary Judgment, opposition must be filed no later than **10 days** before the return date. The “**Movant**” may reply to your opposition no less than **4 days** before the return date.
8. All papers are to be filed with:

Clerk of Superior Court, Probate Division
Cape May County Surrogate’s Office
4 Moore Road, DN 207
Cape May Court House, New Jersey 08210

9. **THE COURT CANNOT PROVIDE LEGAL ADVICE.** If you wish to consult an attorney, you may contact the Cape May County Bar Association Lawyer Referral Service at (609) 463-0313. If you cannot afford an attorney, you may contact South Jersey Legal Services at 609-465-3001.
10. Send a copy of your opposition papers and all supporting documents to all parties by regular mail and certified mail. If an attorney is involved, you do not need to send the documents by certified mail, only by regular mail. **BE CERTAIN TO KEEP A COPY FOR YOUR RECORDS.** The green return receipt card (*with the docket number on it*) is to be filed with the Clerk of Probate Division. **ANY DOCUMENTS FILED WITH THE COURT MUST ALSO BE SENT TO ALL OTHER PARTIES.**

(Your Name)

(Your Address & Phone No.)

Plaintiff(s)

vs.

Defendant(s)

)
)
)
)
)
)
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-

)
CIVIL ACTION

)
NOTICE OF MOTION
)

TO: _____
(Party Name)

(Party Name)

(Address)

(Address)

PLEASE TAKE NOTICE that the undersigned (**I**) will apply to the above named court located at 9 North Main Street, Cape May Court House, New Jersey, on _____, 20__, at _____ a.m./p.m. for an Order asking the court to _____. The grounds for the relief sought are detailed in the attached Certification and/or other documentation.

Pursuant to **Rule 1:6-2d**, the undersigned:

- () waives oral argument and consents to the disposition on the papers;
- () requests oral argument if the Motion is opposed;
- () requests oral argument.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

_____)
_____)
_____)
_____)
_____) *Plaintiff(s)*

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-

vs. _____)

CIVIL ACTION

_____)
_____) *Defendant(s)*

CERTIFICATION

I, _____ (**Your Name**), being of full age, certify
as follows:

I certify that the statements noted above are true. I am aware that if any of
the statements made by me are willfully false, I am subject to punishment by this
court.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

Plaintiff(s)

vs.

Defendant(s)

)
)
) SUPERIOR COURT OF NEW JERSEY
) CHANCERY DIVISION, PROBATE
) DOCKET NO. CPM-P-

) *CIVIL ACTION*

) **ORDER**
)

THIS MATTER having been brought before the court as a result of a
Motion filed by () Plaintiff () Defendant, for an Order_____

_____ and the court having considered the matter, and for good cause shown;

IT IS ON THIS _____ day of _____, 20 , **ORDERED:**

(Your Name)

(Your Address & Phone No.)

Plaintiff(s)

Vs.

Defendant (s)

) SUPERIOR COURT OF NEW JERSEY
) CHANCERY DIVISION, PROBATE
) DOCKET NO. CPM-P-
)
)
) *Civil Action*
)

PROOF OF MAILING

I, _____ (Your Name) am the () plaintiff ()
defendant in this action. On _____, I mailed copies of the
following documents by regular and certified mail to:

DOCUMENTS _____

(List Parties)

_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address
_____ Name	_____ Address

I certify that the statements noted above are true. I am aware that if any of
the statements made by me are willfully false, I am subject to punishment by this
court.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

_____))
_____))
IN THE MATTER OF:)
_____))
_____))
an Alleged Incapacitated Person)
an Incapacitated Person)
_____)

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-**

CIVIL ACTION

NOTICE OF MOTION

TO: _____
(Party Name)

(Party Name)

(Address)

(Address)

PLEASE TAKE NOTICE that the undersigned (**I**) will apply to the above named court located at 9 North Main Street, Cape May Court House, New Jersey, on _____, 20__, at _____ a.m./p.m. for an Order asking the court to _____. The grounds for the relief sought are detailed in the attached Certification and/or other documentation.

Pursuant to **Rule 1:6-2d**, the undersigned:

- () waives oral argument and consents to the disposition on the papers;
- () requests oral argument if the Motion is opposed;
- () requests oral argument.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

IN THE MATTER OF: _____

an Alleged Incapacitated Person)
an Incapacitated Person)
_____)

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-**

**CIVIL ACTION
CERTIFICATION**

I, _____ (Your Name), being of full age, certify

as follows:

I certify that the statements noted above are true. I am aware that if any of the statements made by me are willfully false, I am subject to punishment by this court.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

IN THE MATTER OF:

**an Alleged Incapacitated Person
an Incapacitated Person**

**SUPERIOR COURT OF NEW JERSEY
) CHANCERY DIVISION, PROBATE
) DOCKET NO. CPM-P-**

)
)
)
)

CIVIL ACTION

PROOF OF MAILING

I, _____ (Your Name) am the () plaintiff ()
defendant in this action. On _____, I mailed copies of the
following documents by regular and certified mail to:

DOCUMENTS _____

(List Parties)

Name

Address

Name

Address

Name

Address

Name

Address

I certify that the statements noted above are true. I am aware that if any of
the statements made by me are willfully false, I am subject to punishment by this
court.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

IN THE MATTER OF THE ESTATE
OF

Deceased

)
)
)
)
)
SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-

)
CIVIL ACTION

NOTICE OF MOTION

TO: _____
(Party Name)

(Party Name)

(Address)

(Address)

PLEASE TAKE NOTICE that the undersigned (**I**) will apply to the above named court located at 9 North Main Street, Cape May Court House, New Jersey, on _____, 20__, at _____ a.m./p.m. for an Order asking the court to _____. The grounds for the relief sought are detailed in the attached Certification and/or other documentation.

Pursuant to **Rule 1:6-2d**, the undersigned:

- () waives oral argument and consents to the disposition on the papers;
- () requests oral argument if the Motion is opposed;
- () requests oral argument.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

IN THE MATTER OF THE ESTATE)
OF)

Deceased)

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-**

CIVIL ACTION

CERTIFICATION

I, _____ (Your Name), being of full age, certify
as follows:

I certify that the statements noted above are true. I am aware that if any of
the statements made by me are willfully false, I am subject to punishment by this
court.

(Your Name)

(Date)

(Your Name)

(Your Address & Phone No.)

IN THE MATTER OF THE
ESTATE OF

Deceased

)
)
)
)
)
)

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, PROBATE
DOCKET NO. CPM-P-

CIVIL ACTION

ORDER

THIS MATTER having been brought before the court as a result of a
Motion filed by () Plaintiff () Defendant, for an Order _____

and the court having considered the matter, and for good cause shown;

IT IS ON THIS _____ day of _____, 20 , **ORDERED:**

(Your Name)

(Your Address & Phone No.)

**IN THE MATTER OF THE ESTATE
OF**

Deceased

**SUPERIOR COURT OF NEW JERSEY
) CHANCERY DIVISION, PROBATE
) DOCKET NO. CPM-P-
)
) CIVIL ACTION
)
) **PROOF OF MAILING****

I, _____ (Your Name) am the () plaintiff ()
defendant in this action. On _____, I mailed copies of the
following documents by regular and certified mail to:

DOCUMENTS _____

(List Parties)

Name

Address

Name

Address

Name

Address

Name

Address

I certify that the statements noted above are true. I am aware that if any of
the statements made by me are willfully false, I am subject to punishment by this
court.

(Your Name)

(Date)