

Bergen County Surrogate's Court



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NOTICE TO THE BAR **April 17, 2020**

In early March 2020, it became apparent that Bergen County was becoming the epicenter of COVID-19 in New Jersey. Here in the Surrogate's Court, we moved swiftly to ensure that proceedings would continue in as normal a manner as possible. We created seven specific email addresses for each department, whereby documents and/or requests that were emailed to us would be addressed by the Surrogate Court staff. Most importantly, court matters and probates would continue in the normal course of business. As things got worse, the situation demanded that we close the public portion of our office. As such, estates could no longer be probated with a Surrogate Court Probate Clerk in attendance. It was my intention to hold the emailed probates that we received until a time in the near future when this virus would dissipate. No one anticipated that this virus would last as long as the experts tell us it could.

Over the past two weeks, it had become apparent that probates may not be able to be completed for an extended period of time, thus requiring innovation and outside of the box thinking such that our former normal must give way to the new norm. I have had numerous conversations with Bergen County Assignment Judge Bonnie Mizdol and other County Surrogates, in hope of bringing a solution to this issue. We believe that we have worked out a process that we will initiate, which will be in the best interest of all the residents of Bergen County, attorneys, clients, as well as Surrogate's Court staff.

At this time, I would like to personally thank Bergen County Assignment Judge Bonnie Mizdol, for her dedication, tenacity, and insight into this matter. She was without question an integral part of this plan, and I cannot commend her enough for her leadership. The Surrogate's Court of Bergen County has submitted to Judge Mizdol an order which she has signed incorporating the process which will be utilized on a temporary basis until a time when it is safe to open the public areas of our office.

The process to take place is as follows: New Jersey representatives may send, via email or facsimile, a completed will fact sheet, the Last Will and Testament (the original will be required, but a copy may be produced initially); copies of two forms of identification (one of which shall be a valid government issued photo identification), a valid social security number, and proof of address indicating current address (such as a utility bill, property tax bill, credit card bill, etc.). Upon receipt of same, qualification papers will be prepared and sent to counsel and/or the pro se representative, and an appointment scheduled for virtual qualification via Webex. Be prepared to produce for inspection the originals of the forms of identification during the videoconference. Upon conclusion of the videoconference, all signed qualification papers and other documents must be mailed to our office along with payment in full for Surrogate's fees. Upon satisfactory receipt of the foregoing, Letters Testamentary or Letters of Administration will be issued. Please note that notwithstanding the above, in no event will Letters Testamentary be issued until the original Last Will and Testament is produced for inspection. Due to anticipated high demand and reduced staffing, should you fail to appear at your scheduled time, you will forfeit your appointment.

We appreciate your patience as we navigate this uncharted territory. While it had been my intention to begin web-based services immediately, legislation had been pending before Governor Phillip Murphy under Bill No. 3903 for remote notarial acts. Governor Murphy signed the bill into law on April 14, 2020, which permits an officer authorized to take oaths, affirmations, and affidavits, or to take acknowledgements, to do so by utilizing communication technology. The legislation specifically requires, however, that an audio-visual recording of the performance of the notarial act must be made, and maintained, by the Surrogate's Court for a period of ten years. Our IT Department has worked tirelessly to ensure that the required equipment was in place prior to the institution of these procedures, and I am grateful for their dedication and assistance. This last minute change required the Surrogate's Court to make changes and additions to the technology we had in place. Again, thank you for your patience during this extraordinary time.

Be reminded that Superior Court Chancery Division Judges, as well as Assignment Judge Mizdol, handle all Superior Court, Chancery Division, Probate Part matters. In any such matter, informal application can be made to temporarily waive qualification procedures for fiduciaries.

With regard to adult guardianship matters, the following modifications are being made in accordance with Chief Justice Rabner's Order dated April 8, 2020:

- Personal service of the pleadings upon alleged incapacitated individuals may be completed by alternative means, including certified mail or reading aloud the contents of the complaint, or, if the alleged incapacitated is confined to a facility, then by personal service by staff of the facility.
- Affidavits in support of guardianship applications may be submitted by persons who otherwise would be disqualified because of their affiliation with an institution having care or custody of the alleged incapacitated person.
- Court appointed attorneys and/or Guardians ad Litem are permitted the opportunity to personally interview the alleged incapacitated person electronically or by phone.
- If in-person medical examinations of alleged incapacitated persons cannot be conducted as required by R. 4:86-2(b)(2), then the examinations of the alleged incapacitated person as required by that Rule may be conducted by Skype, FaceTime, Zoom or other electronic means as determined appropriate by each such physician having qualifications set forth in N.J.S.A. 30:4-27.2t and licensed practicing psychologist as defined in N.J.S.A. 45:14B-2 are be permitted.
- Judgments of Incapacitation may authorize the guardian to act immediately if qualification cannot be timely completed, and the requirement of posting of surety bond may be postponed (but not waived) so long as any immediate authority over the guardianship estate is narrowly tailored to avoid immediate and irreparable harm to the incapacitated person or their property.
- Any novel issues or concerns not addressed herein can be discussed by telephone with our Court Division.

Should a Superior Court matter require immediate relief, please contact our Court Division to discuss the proper manner for submission of pleadings.

Our office is currently operating on a reduced schedule from 8:30 a.m. to 3:00 p.m. Please be mindful that we are operating with a reduced staff to comply with the directive of Bergen County Executive James J. Tedesco, III, as well as Governor Phillip Murphy's Executive Orders related to the COVID-19 pandemic.

Please note that the above accommodations will expire immediately upon the lifting of the state of emergency in New Jersey by Governor Phillip Murphy, or upon further order of Judge Mizdol, whichever comes first.

I trust that the aforementioned procedures will not only serve the public, but also ensure that the safety and well-being of our employees and the public remains top priority.

Be well,



Michael R. Dressler, Surrogate
Deputy Clerk, Superior Court
Chancery Division, Probate Part