

Cumberland County Surrogate's Court

DOUGLAS M. RAINEAR
SURROGATE

60 W. BROAD STREET
BRIDGETON, NEW JERSEY 08302
Phone: (856) 453-4800
Fax: (856) 451-7356

ISABELLA A. GAROFOLA, ESQ
DEPUTY SURROGATE



PROBATE INFORMATION

To begin a court action in Probate, certain pleadings must be filed which outline the nature of the problem and the relief sought. The pleadings also give notice of the action to other interested persons. This package seeks to outline the process and provide basic forms to follow. The attached forms are samples only. They include a Complaint with Verification, Order to Show Cause, Certification, Proof of Service and a Judgment. Please read the court rules provided and the forms carefully before preparing your pleading package. File an original and one copy of the pleading package with the Surrogate's Court. Please note: the staff is not permitted to offer legal advice to you. Please consult with an attorney.

Filing Fees:

Probate Complaint: \$175.00

Checks are made payable to: "Cumberland County Surrogate"

Once the pleading package is filed with the Surrogate's Office, the Order to Show Cause will be presented to a Judge for signing. A "filed" copy will be returned to you for service.

1. A copy of the "filed" pleading package must be served by **certified mail**, return receipt requested, **and regular mail** on all persons having an interest in the Estate.
2. You must prove to the Court that service was made by filing with the Court a **Proof of Service Affidavit, including the green, return receipt cards. before** the hearing.
3. You must also provide the Court with a **proposed form of Judgment**. It must be completed and filed with the Surrogate at least one (1) week before the hearing date.

Thank you.

PROBATE COURT PLEADINGS

The attached pleading forms may be used for any Probate Part action and are designed to allow you to state clearly:

- (1) the relief that you seek; and
- (2) the reasons and facts supporting your request to the Court.

The forms include italicized or underlined words and blank spaces. These denote areas for you to complete with information about your case.

Included in this packet are several New Jersey Rules of Civil Practice that apply to "Order to Show Cause" procedures. This is not meant to be a comprehensive list. It is offered merely to highlight certain relevant requirements.

Rule 4:83-2. Filing papers

In all matters relating to the estates of decedent's, papers shall be filed with the Surrogate as the Deputy Clerk of the Superior Court, Chancery Division, Probate Part.

Rule 4:83.3. Title of Action

... (E)very paper shall be entitled "In the Matter of the Estate of _____, Deceased..."

Support for the complaint is in the form of an **Affidavit**, which is a sworn statement by one person, set forth in numbered paragraphs, and signed before a notary public. Documentary proof may be referenced and attached. In place of the affidavit, a **Certification** may be utilized. The certification form does not require a notarized signature.

Rule 1:4-4. Affidavits

- (a) **Form.** Every affidavit shall run in the first person and be divided into numbered paragraphs as in pleadings. The caption shall include a designation of the particular proceeding the affidavit supports or opposes and the original date, if any, fixed for hearing...
- (b) **Certification in Lieu of Oath.** In lieu of the affidavit, oath or verification required by these rules, the person making the statement (affiant) may submit the following certification which shall be dated and include the following statement inserted immediately above the signature line:
"I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

More than one certification may be used to support the complaint.

Notice to interested persons is a critical step in the litigation process. It is part of "Due Process" under the law and Constitution.

Rule 4:67-3; R.4:4-4; R.4:4-5; R. 4:87-1 Service

The Summons to appear in Court shall be the **Order to Show Cause**.

- If the names and addresses of all interested persons are known, the Order to Show Cause, with a true copy of the complaint package shall be mailed by registered or certified mail, return receipt requested to:

- All parties at least ten (10) days prior to the return date (court hearing date)
 -
 - Where a **financial account** of an estate is included in the pleadings for Court review and approval, **Rule 4:87-4** requires notice, as follows:
 - **To New Jersey** residents, at least twenty (twenty) days prior to return date (court hearing).
 - **To United States** residents outside New Jersey, at least thirty (30) days prior to return date (court hearing).
 - **To persons residing outside of the United States**, at least sixty (60) days prior to return date (court hearing).
 - **For minors or incapacitated persons:** notice is sent to the guardian or adult person residing with the minor or incapacitated person.
 - **For sureties on the fiduciary's bond:** service in accordance with the above as an interested person to the account.
 - **For persons whose names or addresses are unknown**, notice shall be given to the Attorney General at least forty-five (45) days before the hearing date.
 - Plaintiff shall make an inquiry to find the unknown persons or addresses and file an Affidavit of Inquiry with the court, in accordance with R. 4:4-4(b)(1) and R. 4:4-5(b).
 - The Court may then enter an order for alternate service of process, including, by publication of notice of the court action, in accordance with R. 4:4-5(a).
The notice must be published at least 30 days before the hearing date.
- (Office of Attorney General, P.O. Box 080, Trenton, NJ 08625-0080)**

Rule 4:4-5. Service on Absent Defendants.

When it appears that after diligent inquiry a defendant cannot be served within the state, service may, consistent with due process of law, be made by any of the following four (4) methods:

- (a) personal service outside this state
- (b) service by mail
- (c) by publication (if the Court allows by Order)
- (d) as provided by court order.

Note: Service by publication must be approved by the Court. An affidavit of diligent inquiry shall be offered in support of an application to allow service/notice by publication.

Proof of Mailing/Service and of publication (where ordered) must be filed with the Court before an account will be allowed or a Judgment entered.

Rule 1:5-3. Proof of Service

Proof of Service may be made by one or more of the following methods:

- (1) Acknowledgement of Service (signed by the person receiving the pleadings)
- (2) Affidavit of the person making the service, signed before a notary public
- (3) Certification of Service (form attached)

State:

- a. That the mailing was to the last known address of the persons served; listing each name and address;

b. The name and address of each attorney served, identifying the party that the attorney represents;

c. Where there are undelivered certified mailings, state whether the regular mail was returned as undelivered.

Attach:

d. The certified mailing green, return receipt cards; and

e. Copies of any undelivered certified mail envelopes; and

➤ For undelivered certified mailings, state whether the regular mail was returned.

VERIFIED COMPLAINT

Plaintiff's information:

Name: _____

Address: _____

Telephone Number: _____

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
CUMBERLAND COUNTY
PROBATE PART

IN THE MATTER OF

Print or type name of Decedent

Docket No.
(Docket no. will be filled in by the court)

DECEASED

CIVIL ACTION

VERIFIED COMPLAINT FOR AN ORDER

(Briefly state relief sought)

Plaintiff, _____ residing at _____,
City/Township/ Borough of _____,
County, New Jersey, by way of verified complaint says:

COUNT ONE

1. On _____, _____ departed this life. A copy
(date of death) *(decedent's name)*
of the death certificate is attached.

2. The plaintiff [is] [is not] related to the decedent and is the decedent's _____.

3. The decedent was born on _____ in _____.
(date) *(city and state)*

4. The decedent's heirs-at law are the following listed persons: [Include spouse, children. If none, include grandchildren, parents, grandparents, brothers, sisters, aunts, uncles, nieces, nephews or first cousins]

VERIFICATION OF THE COMPLAINT

I, _____, hereby certify and say:

- 1. I am the plaintiff in this action.
- 2. I have read the complaint and its contents are true to my personal knowledge.

I hereby certify that the statements made by me are true. I am aware that if any are willfully false I am subject to punishment.

Date: _____

SIGNATURE OF PLAINTIFF

TYPE OR PRINT NAME

SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION CUMBERLAND COUNTY
 PROBATE PART

IN THE MATTER OF The Estate of _____, Deceased	Docket No.: <p style="text-align: center;">CIVIL ACTION</p> <p style="text-align: center;">ORDER TO SHOW CAUSE SUMMARY ACTION</p>
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THIS MATTER, being brought before the Court by _____, [insert plaintiff's name] seeking relief by way of Summary Action based upon the facts set forth in the Verified Complaint filed herewith; and the Court having determined that this matter may be commenced by Order to Show Cause as a summary proceeding pursuant to R. 4:83-1, and for good cause shown;

[Dates in the following paragraph to be completed by the Court]

IT IS on this _____ day of _____, 20____, ORDERED that the parties in interest named in paragraph 4 of the Verified Complaint appear and show cause on the ____ day of _____, 20____, before the Superior Court, Chancery Division, Probate Part at the Cumberland County Courthouse, 60 W. Broad Street., in the City of Bridgeton, and State of New Jersey, at _____ o'clock in the forenoon/afternoon, or as soon thereafter as counsel may be heard, why judgment should not be entered for: [Court completes blanks, this paragraph]

[State each type of relief plaintiff seeks on the following lines]

- A. _____
- B. _____
- C. _____
- D. _____

E. Granting such other relief as the Court deems equitable and just; and

IT IS FURTHER ORDERED, that: [Court completes blanks in all paragraphs below]

1. Any party in interest who wishes to be heard with respect to any of the relief requested in the Verified complaint served with this Order to Show Cause shall file with the Surrogate of Cumberland County and serve on the attorney for the plaintiff at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard, or other response to this Order to Show Cause and to be the relief requested in the

Verified Complaint by _____, 20____. Filing shall be made with the Surrogate of Cumberland County at 60 W. Broad Street, Bridgeton, New Jersey 08302. The responding party in interest shall also file with the Surrogate by the foregoing date a Proof of Service upon the Plaintiff.

2. Any party in interest who fails to timely file and serve a response in the manner provided in paragraph 1 of this Order to Show Cause shall be deemed in default, the matter may proceed to judgment without any further notice to or participation by such defaulting party in interest, and the judgment shall be binding upon such defaulting party in interest.

3. Parties in interest are hereby advised that a telephone call to the plaintiff; to the plaintiff's attorney, to the Surrogate, or to the Court will not protect your rights; you must file and serve your answer, answering affidavit, motion or other response with the filing fee required by statute. The check or money order for the filing fee shall be made payable to the Surrogate of Cumberland County. If you cannot afford an attorney, you may call the Legal Services Office in the County in which you live. **A list of these offices is provided.** If you do not have an attorney or are not eligible for free legal assistance through the Legal Services Office (or such office does not provide services for this particular type of proceeding), you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. **A list of these office numbers is also provided.**

4. If no party in interest timely files and serves a response to this Order to Show Cause as provided for above, the application may be decided by the Court on or after the date this matter is scheduled to be heard, and may be decided on the papers without a hearing, provide that the plaintiff has filed a Proof of Service and a proposed from of Judgment as required by paragraphs 7 and 9 of this Order to Show Cause.

5. If a party in interest timely files a response as provided for above, the Court may entertain argument and may take testimony on the date this matter is scheduled to be heard.

6. The plaintiff must file and serve any written reply to the response of a party in interest by _____, 20____. The reply papers together with a Proof of Service must be filed with the Surrogate in the county listed.

7. Plaintiff shall submit to the Surrogate an original and two (2) copies of a proposed from of Judgment addressing the relief sought on the date this matter is scheduled to be heard (along with a postage-paid return envelope) **no later than** _____, 20____, (_____) days before the date this matter is scheduled to be heard.

8. A copy of this Order to Show Cause, the Verified Complaint, all certifications, affidavits and exhibits submitted in support of this application, all of which shall be certified thereon by plaintiff's attorney to be true copies, shall be served upon the parties in interest listed in paragraph 4 of the Complaint, by certified mail, return receipt requested (or by registered mail, return receipt requested with respect to any party in interest who resides outside the United States) and by regular mail within _____ days of the date hereof, in accordance with R. 4:67-3, R. 4:4-3 and R. 4:4-4, this Order to Show Cause being original process.

9. The plaintiff shall file with the Surrogate of Cumberland County a Proof of Service of the documents required by paragraph 8 above to be served on the parties in interest **no later than** _____, **20** _____, (____), days before the date this matter is scheduled to be heard.

10. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court and parties are advised to the contrary **no later than** _____ days before the return date.

11. *[In many proceedings in the probate part, an interest party will be a minor or incapacitated, which will require that a guardian ad litem be appointed, and/or an attorney be appointed as counsel to represent the minor or incapacitated person. See generally R. 4:26-2.]*

_____ (Name) is a **minor** } **{incapacitated person}** interested in this action. _____, **Esquire** is hereby appointed to serve as **counsel for** **guardian ad litem for** the minor/incapacitated person.

HON. MARK CIMINO, J.T.C./a SUPERIOR COURT

Plaintiff's information:

Name: _____

Address: _____

Telephone Number: _____

IN THE MATTER OF

: **SUPERIOR COURT OF NEW JERSEY**

: **CHANCERY DIVISION**

: **CUMBERLAND COUNTY**

: **PROBATE PART**

:
:

: **DOCKET NO.:**

:
:

: **CIVIL ACTION**

:
:

: **CERTIFICATION OF**

_____,

DECEASED

(Print or type name)

I, _____, OF FULL AGE, HEREBY CERTIFY AS FOLLOWS:

I CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT.

DATE: _____, _____

(Sign above)

(Print name above)

SAMPLE PROOF OF SERVICE

Plaintiff's information:

Name: _____

Address: _____

Telephone Number: _____

IN THE MATTER OF

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
CUMBERLAND COUNTY
PROBATE PART

_____,
Print or type name of Decedent

Docket No. _____
(To be filled in by the court)

DECEASED

CIVIL ACTION

PROOF OF SERVICE

I, _____, in accordance with the provision of R. 1:4-4(b), hereby certify as follows:

1. I am acting *pro se* in this action, serving as counsel for myself. I make this Certification in accordance with the provisions of R. 1:5-3 of the Rules Governing Civil Practice in the Courts of the State of New Jersey, and have personal knowledge of the facts set forth in this Certification.

2. *(For service on a party's attorney)* On _____, I served, by regular
(date of service)
mail, a copy of Plaintiff's Verified Complaint for an Order _____
(Briefly state requested relief)

together with a copy of the Court's Order to Show Cause entered on _____
(Date order was entered)

upon _____, Esquire, counsel to _____,
(Attorney's Name) *(Party's Name)*

who is related to the estate as _____.
(Examples: surviving spouse, daughter of decedent, executor of the estate, creditor)

In an Acknowledgement of Service dated _____,
(date of Acknowledgement)

Mr./Ms. _____ Acknowledged and accepted service of the aforesaid
(Attorney's Name)

Pleadings on behalf of his/her client, _____ . See Exhibit A,
(Party's Name)

attached (Attach the attorney's signed Acknowledgement of Service).

3. (If serving a party directly) On _____, I served, by
(date of service)
certified mail, return receipt requested, and by regular mail, a copy of Plaintiff's Verified
Complaint for _____,
(Relief requested in complaint)
together with a copy of this Court's Order to Show Cause entered on
_____, 20 _____ upon _____,
(date of service) (Party's name)

who is related to the estate as _____.
(Example: Surviving spouse, daughter of decedent, executor of the estate, creditor)

Attached hereto as Exhibit B is the original green return receipt card signed by or on behalf of

_____. **OR**
(Party's name)

Attached hereto as Exhibit C is a copy of the returned certified mail envelope sent to
_____. The regular mail [was] [was not] (Choose) returned.

**I certify that the foregoing statements made by me are true. I am aware that if any of
the foregoing statements made by me are willfully false, I am subject to punishment.**

Dated: _____

(Plaintiff/Filer's Name)

**A COPY OF THIS PAGE MUST BE
ENCLOSED WITH DOCUMENTS SERVED**

Atlantic County Surrogate
Atlantic County Civil Courthouse
1201 Bacharach Blvd. Atlantic City, NJ 08401

ATLANTIC COUNTY:
LAWYER REFERRAL: (609) 345-3444
LEGAL SERVICES: (609) 348-4200

Bergen County Surrogate
Bergen County Justice Center
10 Main Street, Room 211,
P.O. Box 600, Hackensack, NJ 07601-7691

BERGEN COUNTY:
LAWYER REFERRAL (201) 488-0044
LEGAL SERVICES (201) 487-2166

Burlington County Surrogate
Burlington County Court Complex
49 Rancocas Road, 1st floor
PO Box 6000, Mt. Holly, NJ 08060-1827

BURLINGTON COUNTY:
LAWYER REFERRAL (609) 261-4862
LEGAL SERVICES (800) 496-4570

Camden County Surrogate
Camden County Surrogate Office
415 Federal Street, Camden, NJ 08103-1122

CAMDEN COUNTY:
LAWYER REFERRAL: (856) 964-4520
LEGAL SERVICES: (856) 964-2010

Cape May County Surrogate
4 Moore Rd., P.O. Box 207
Cape May Court House, NJ 08210

CAPE MAY COUNTY:
LAWYER REFERRAL: (609) 463-0313
LEGAL SERVICES :(609) 465-3001

Cumberland County Surrogate
Cumberland County Courthouse
60 West Broad Street, Suite A111
Bridgeton, NJ 08302

CUMBERLAND COUNTY:
LAWYER REFERRAL: (856) 692-6207
LEGAL SERVICES: (856) 696-5550

Essex County Surrogate
206 Hall of Records
465 Dr. Martin Luther King, Jr. Blvd.,
Newark, NJ 07102

ESSEX COUNTY:
LAWYER REFERRAL: (973) 622-6207
LEGAL SERVICES: (973) 624-4500

Gloucester County Surrogate
Surrogate Building
17 North Broad Street, 1st flr.
P.O. Box 177, Woodbury, NJ 08096-7177

GLOUCESTER COUNTY:
LAWYER REFERRAL: (856) 848-4589
LEGAL SERVICES: (856) 848-5360

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Hudson County Surrogate
Administration Bldg.
595 Newark Ave., Room 107
Jersey City, NJ 07306

HUDSON COUNTY:
LAWYER REFERRAL: (201) 798-2727
LEGAL SERVICES: (201) 792-6363

Hunterdon County Surrogate
Hunterdon County Justice Center
65 Park Avenue
P.O. Box 2900, Flemington, NJ 08822-2900

HUNTERDON COUNTY:
LAWYER REFERRAL: (908) 263-6109
LEGAL SERVICES: (908) 782-7979

Mercer County Surrogate
Mercer County Courthouse
175 So. Broad Street
P.O. Box 8068
Trenton, NJ 08650-0068

MERCER COUNTY:
LAWYER REFERRAL: (609) 585-6200
LEGAL SERVICES: (609) 695-6249

Middlesex County Surrogate
Administration Building
75 Bayard Street,
PO Box 790 New Brunswick, NJ 08903-0790

MIDDLESEX COUNTY:
LAWYER REFERRAL: (732) 828-0053
LEGAL SERVICES: (732) 249-7600

Monmouth County Surrogate
Hall of Records
1 East Main Street
P.O. Box 1265, Freehold, NJ 07728-1265

MONMOUTH COUNTY:
LAWYER REFERRAL: (732) 431-5544
LEGAL SERVICES: (732) 866-0020

Morris County Surrogate
Administrative & Records Bldg, 5th Fl.
Court Street
P.O. Box 900 Morristown, NJ 07963-0900

MORRIS COUNTY:
LAWYER REFERRAL: (973) 267-5882
LEGAL SERVICES: (973) 285-6911

Plaintiff's information:

Name: _____

Address: _____

Telephone Number: _____

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
CUMBERLAND COUNTY
PROBATE PART

IN THE MATTER OF

Docket No. _____ (Print or type)

_____,
Print or type name of Decedent

CIVIL ACTION

DECEASED

ACKNOWLEDGEMENT OF SERVICE

TO: _____

(Plaintiff's name and address)

On this _____ day of _____, 20____, I hereby acknowledge receipt of the
(This date completed by person signing the acknowledgement)

order to show cause, verified complaint and supporting documents filed with the Court in the

above-captioned action on _____, 20____.
(Date of filing/order signed)

(Signature of person acknowledging receipt of pleadings)

(Print name)

