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RECENT CHANGES TO NEW JERSEY COURT RULES REGARDING PROBATE AND GUARDIANSHIP PROCEDURES

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Introduction

On July 23, 2026, Chief Justice Stuart Rabner entered an Omnibus Order amending the Rules Governing the Courts of the State of New Jersey, effective September 1, 2026 (the “Omnibus Order”). Among the amendments, the Omnibus Order modified the notice requirements applicable to the probate of a will and formalized established court procedures and requirements for guardianship proceedings that were first introduced during the COVID-19 pandemic.

Changes to Notice by Publication for the Probate of a Will

Under Rule 4:80-6, a personal representative must mail written notice of probate to all beneficiaries and interested parties within 60 days of probate. Where the names or addresses of interested persons cannot be determined through reasonable inquiry, the Omnibus Order amended the Rule 4:80-6 to now provide for notice to be published in an online news publication instead of a circulated print newspaper. This change to the Rule now aligns with P.L. 2025, c. 72, signed by Governor Murphy on June 30, 2025, modernizing New Jersey’s legal notice requirements effective March 1, 2026. Note, there are statutory requirements for a qualifying online news platform, including minimum audience size, geographic reach, free public access, and searchable archive retention of at least one year. Named beneficiaries and known heirs will continue to receive direct mailed notice of probate. Notice to the Attorney General remains required when a will devises property for charitable purposes.

Changes to Guardianship Rules

The Omnibus Order also adopted several amendments to Rule 4:86, which governs actions for the guardianship of incapacitated individuals. As recommended by the Supreme Court Civil Practice Committee in its January 2026 Report, these changes address multiple aspects of guardianship procedure from the initial filing of a Verified Complaint, through the hearing process, and beyond.

Codification of COVID-Era Procedural Flexibility

The amendment to Rule 4:86-1(a) formally codifies procedural relaxations originating in the Supreme Court’s Seventh Omnibus COVID-19 Order of July 24, 2020.

Amended Rule 4:86-1(a) makes this flexibility permanent, allowing courts to relax or modify procedural requirements—including in-person examination and communication mandates—based on the circumstances of each guardianship case. Where an in-person examination is impracticable, such as when an alleged incapacitated person is in a locked memory-care facility, is medically fragile, or is out of state, the court has clear authority to permit virtual examinations, telephonic communications, or other alternative arrangements without requiring a separate showing of extraordinary circumstances.

Amendments to Complaint Requirements and the Order for Hearing

The Omnibus Order also amended Rule 4:86-2 (governing the complaint and accompanying documents, including alternative affidavits or certifications) and Rule 4:86-4 (governing the Order for Hearing).

The change to Rule 4:86-2(b) expands those medical certifications that are required to support the guardianship application. Specifically, while one physician remains a requirement, the second certification may be not only from a psychologist, but also a licensed physician assistant or a registered nurse licensed as an Advance Practice Nurse.

Rule 4:86-2(c) permits a petitioner to submit an alternative affidavit or certification from a physician or psychologist when the alleged incapacitated person (or those responsible for the person's care) refuses an examination, documenting the attempted examination and refusal. The amendments clarify and expand when alternative documentation may be used, including when the alleged incapacitated person resides in a facility that restricts visitor access, cannot participate in an in-person examination, or is otherwise unavailable for evaluation through no fault of the petitioner.

The amendments to Rule 4:86-4 further updated procedures for issuing the Order for Hearing, including notice requirements and the hearing-scheduling timeline.

Guardian Ad Litem

Under Rule 4:86-4(d), at any time prior to the entry of judgment, where special circumstances come to the attention of the court by formal motion or otherwise, a guardian ad litem ("GAL") may be appointed in addition to a court-appointed attorney for the alleged incapacitated person. The GAL's role is distinct from that of the court-appointed attorney: the attorney serves as an advocates for the alleged incapacitated person's expressed wishes, but the GAL evaluates the best interests of the alleged incapacitated person as an independent fact-finder for the court. The amendments have clarified procedures for requesting and appointing a GAL, reinforcing the court's ability to ensure a neutral party investigates the need for a guardianship and provides an independent recommendation when warranted.

Standardized Forms for Guardianship Applications

Finally, the amendments to Rule 4:86-10(a) now require the use of standardized forms promulgated by the Administrative Office of the Courts ("AOC") for all guardianship applications involving incapacitated adults who are eligible for or receiving services from the Division of Developmental Disabilities. This standardization is intended to improve consistency across New Jersey's vicinages, reduce procedural deficiencies in filings, and streamline the Surrogate's review of complaints. The Omnibus Order also adopted conforming amendments to Rule 4:86-3A, which governs the Surrogate's review of complaints prior to docketing.

Takeaway

These rule changes, now in effect, underscore the rapidly evolving legal landscape governing estate administration and elder care. Staying ahead of these developments is critical to protecting your family's

assets and ensuring your loved ones receive the care they deserve. With offices across New Jersey and New York, Schenck, Price, Smith & King, LLP's Tax, Trusts and Estates team can guide you through every stage of estate planning, administration, guardianship, and litigation. Contact our team to learn how these changes may affect you or to discuss your estate or elder planning needs.

For more information, contact Thomas R. Lahey, Esq. at tlahey@spsk.com.

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