

## **RULE 4:84. Complaints In Cases In Which Surrogate's Court Not Able To Act**

### **4:84-1. In General**

In any case in which, under R. 4:82, the Surrogate's Court may not act, any person in interest may file a complaint and apply for an order directed to all other interested parties to show cause why the relief sought should not be granted. Service shall be as provided by R. 4:67-3.

Note: Source-R.R. 4:103-1(c), 5:3-3(b), 5:3-5(b). Former R. 4:84-1(e) deleted and new R. 4:84-1 adopted June 29, 1990 to be effective September 4, 1990.

### **4:84-2. Probate in the Superior Court**

If a will is sought to be proved in the Superior Court, proceedings for discovery shall be available pursuant to R. 4:10, R. 4:12 to 4:19 inclusive, R. 4:21 and R. 4:23. On the taking of a deposition, a photocopy of the will shall be marked for identification by the person before whom the deposition is taken. If the will is admitted to probate, the judgment of the Superior Court shall direct that the will be filed with and recorded by the Surrogate's Court. Letters of appointment shall then be issued by the Surrogate's Court.

Note: Source-R.R. 5:3-1 and 5:3-7. New R. 4:84-2, based on deleted second sentence of former R. 4:80-2(a), adopted June 29, 1990 to be effective September 4, 1990.

### **4:84-3. Contested Administration**

Where administration of an estate has been contested, the judgment of the Superior Court granting administration shall direct issuance and recording of letters of administration by the Surrogate's Court.

Note: Source-R.R. 4:103-4; former R. 4:84-3 deleted, new caption and text adopted June 29, 1990 to be effective September 4, 1990.

### **4:84-4. Appointment of Substituted Trustees**

An action for the appointment of a substituted trustee (a trustee not named in the trust document) of an inter vivos or testamentary trust shall be brought pursuant to R. 4:83. The complaint shall have attached a copy of the trust instrument and the acceptance by the person or persons seeking the appointment. The order to show cause shall be served upon all persons having an interest in the trust, vested or contingent, except as otherwise provided by R. 4:26-3 (virtual representation), and upon any trustees then serving. The judgment shall direct the issuance by the Surrogate's Court of letters of trusteeship.

Note: Source-R.R. 4:100-2 and 4:100-3. Former R. 4:81-2 and 4:81-3 deleted and new R. 4:84-4 adopted June 29, 1990 to be effective September 4, 1990; amended July 5, 2000 to be effective September 5, 2000.

### **4:84-5. Appointment of Administrator Pendente Lite or Other Limited Administrator**

No order appointing an administrator pendente lite or other limited administrator shall be entered by the Superior Court without either notice to the persons in interest or their written consent, unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable damage will result before notice can be served and a hearing had thereon. If an order is granted without notice, it shall give any person in interest

leave to move for the discharge of the administrator on no more than 2 days' notice. This rule shall not apply to the administrator ad prosequendum in an action for wrongful death.

**Note:** Source-R.R. 4:99-8. Amended July 26, 1984 to be effective September 10,