ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

PHILIP S. CARCHMAN, P.J.A.D.
ACTING ADMINISTRATIVE DIRECTOR OF THE COURTS

HUGHES JUSTICE COMPLEX
P.O. BOX 037
TRENTON, NEW JERSEY 08625-0037

DIRECTIVE # 8-08
(Supplements Directive #16-05)

[Questions or comments may be directed to 609-292-8470.]

TO: **ASSIGNMENT JUDGES**
CIVIL PRESIDING JUDGES
PROBATE PART JUDGES
SURROGATES

FROM: **PHILIP S. CARCHMAN**

SUBJ: **ORDERS TO SHOW CAUSE AS ORIGINAL PROCESS -- MODEL PROBATE PART ORDER TO SHOW CAUSE**

DATE: **APRIL 16, 2008**

This supplements Directive #16-05, "Orders to Show Cause as Original Process – Model Forms for Use in Civil, Family, General Equity, and Special Civil Part," which promulgated three standard form Orders to Show Cause for use as original process in Civil, General Equity, Family, and Special Civil Part matters. Attached here is an additional model Order to Show Cause (OSC) for use in the Probate Part.

The attached model order, approved by the Judicial Council at its January 17, 2008 meeting, is intended to provide guidance in drafting acceptable Probate Part orders to show cause. It is preformatted to comply with the Rules of Court and contains language necessary to be included when an order to show cause serves as original process. While use of the model OSC is not mandatory, any modifications must conform to the requirements of the Rules of Court and any applicable Administrative Directives.

P. S. C.

Attachment (Model Probate Part OSC)
cc: Chief Justice Stuart Rabner
Christina P. Higgins, Acting Deputy Administrative Director
AOC Directors and Assistant Directors
Trial Court Administrators
Civil Division Managers
Kevin M. Wolfe, Chief
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION _____ COUNTY
PROBATE PART

[Caption: See Rule 4:83-3 for Probate Part Actions]

IN THE MATTER OF

Docket No.:

CIVIL ACTION

ORDER TO SHOW CAUSE
SUMMARY ACTION

THIS MATTER being brought before the Court by _____, attorney for plaintiff, [*insert the 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.

IT IS on this _____ day of _____ , 20__ , *ORDERED* that the parties in interest named in paragraph __ of the verified complaint appear and show cause on the _____ day of _____, 20__ before the Superior Court, Chancery Division, Probate Part [*and fill in, or leave an appropriate blank to be filled in by the Court or Surrogate, if the matter is to be heard by a specified Judge*] at the _____ County Courthouse [*provide the address*] in _____, New Jersey at _____ o'clock in the _____ noon, or as soon thereafter as counsel can be heard, why judgment should not be entered for:

A. [*Set forth with specificity the return date relief that the plaintiff is seeking*.];

[Note: Model Probate Part OSC promulgated by Directive #8-08.]

B. _____;

C. _____;

D. Granting such other relief as the court deems equitable and just.

And it is further *ORDERED* that:

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 _____ County and serve upon 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 the relief requested in the verified complaint by _____, 20___. Filing shall be made with the Surrogate of _____ County at [*insert address of Surrogate in the County where action is being brought*]. Such responding party in interest shall also file with such Surrogate by the foregoing date a proof of service upon the plaintiff. [A copy of such response shall also be filed directly with the chambers of Judge _____ at the following address: _____.]

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 the County where this matter is being heard. 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, provided that the plaintiff has filed a proof of service and a proposed form 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 [*add if appropriate:* "and may take testimony" *or* "but will not 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 above [and a copy of the reply papers must be sent directly to the chambers of Judge _____].

7. Plaintiff shall submit to the Surrogate an original and two copies of a proposed form 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 _____ (__) days before the date this matter is scheduled to be heard.

8. A copy of this order to show cause, the verified complaint, and [*insert a description of any other filed papers, such as an accounting*], and all affidavits 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 __ 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] [*or alternatively*: shall be personally served upon the parties in interest

listed in paragraph __ of the complaint] 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 _____ County a proof of service of the documents required by paragraph 8 above to be served on the parties in interest no later than _____ (__) 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 interested 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. In such matters, it may be appropriate to add an additional paragraph or paragraphs to this order to show cause to appoint, or provide for the procedure to appoint, such counsel or guardian ad litem.*]

_____

J.S.C.

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., POB 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) 451-0003
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
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

Ocean County Surrogate Ocean County Courthouse 118 Washington Street P.O. Box 2191 , Toms River, NJ 08754-2191	OCEAN COUNTY: LAWYER REFERRAL: (732) 240-3666 LEGAL SERVICES: (732) 341-2727
Passaic County Surrogate Passaic County Courthouse 77 Hamilton Street Paterson, NJ 07505	PASSAIC COUNTY: LAWYER REFERRAL: (973) 278-9223 LEGAL SERVICES: (973) 523-2900
Salem County Surrogate Salem County Surrogate's Court 92 Market Street Salem, NJ 08079	SALEM COUNTY: LAWYER REFERRAL: (856) 678-8363 LEGAL SERVICES: (856) 451-0003
Somerset County Surrogate Somerset Co. Surrogate's Office 20 Grove Street P.O. Box 3000, Somerville, NJ 08876	SOMERSET COUNTY: LAWYER REFERRAL: (908) 685-2323 LEGAL SERVICES: (908) 231-0840
Sussex County Surrogate Sussex County Surrogate's Court 4 Park Place, 2nd flr., Newton, NJ 07860	SUSSEX COUNTY: LAWYER REFERRAL: (973) 267-5882 LEGAL SERVICES: (973) 383-7400
Union County Surrogate Union County Courthouse 2 Broad Street, 2nd flr. Elizabeth, NJ 07207-6001	UNION COUNTY: LAWYER REFERRAL: (908) 353-4715 LEGAL SERVICES: (908) 354-4340
Warren County Surrogate Warren County Courthouse 413 Second Street Belvidere, NJ 07823-1500	WARREN COUNTY: LAWYER REFERRAL: (908) 387-1835 LEGAL SERVICES: (908) 475-2010