

## **RULE 5:9A. Actions for Kinship Legal Guardianship**

### **5:9A. Actions for Kinship Legal Guardianship**

- **(a)** An action seeking the establishment of a kinship legal guardianship relationship pursuant to N.J.S.A. 3B:12A-1 et seq. (L. 2001, c. 250) shall proceed in accordance with the act and with procedures and forms promulgated by the Administrative Director of the Courts.
- **(b)** Except as provided in paragraph (c) of this rule, service of process in kinship legal guardianship proceedings shall be in accordance with R. 5:4-4(b) or pursuant to court order in accordance with R. 4:4-4(b)(3).
- **(c)** If, pursuant to N.J.S.A. 30:4C-87, the Division of Youth and Family Services ("Division") seeks kinship legal guardianship as an alternative disposition to a complaint initiated by the Division pursuant to N.J.S.A. 9:6-8.21 or N.J.S.A. 30:4C-15, the Division shall not be required to file a new petition, but may amend the pending complaint in accordance with the Rules of Court. When it appears to the court by Affidavit of Diligent Inquiry filed in the action initiated by the Division that any proper party, including a legal or putative parent, cannot be located, the court shall assume jurisdiction and proceed to hear the matter summarily pursuant to R. 5:12-2. It shall be sufficient to serve parties in default by certified and regular mail at their last known address.

**Note:** Adopted July 12, 2002 to be effective September 3, 2002; former text redesignated as paragraph (a), and new paragraphs (b) and (c) adopted July 28, 2004 to be effective September 1, 2004.

#### **5:9A-1. Title of Action**

In all actions seeking kinship legal guardianship of a child pursuant to N.J.S.A. 3B:12A-1 to -6, every paper shall be entitled "Kinship Matter of [minor child's name]."

**Note:** Adopted June 15, 2007 to be effective September 1, 2007.

#### **5:9A-2. Filing and Service**

- **(a)** An action seeking the establishment of a kinship legal guardianship relationship pursuant to N.J.S.A. 3B:12A-1 et seq. (L. 2001, c. 250) shall proceed in accordance with the act and with procedures and forms promulgated by the Administrative Director of the Courts.
- **(b)** Except as provided in paragraph (c) of this rule, service of process in kinship legal guardianship proceedings shall be in accordance with R. 5:4-4(b) or pursuant to court order in accordance with R. 4:4-4(b)(3).
- **(c)** If, pursuant to N.J.S.A. 30:4C-87, the Division of Child Protection and Permanency ("Division") seeks kinship legal guardianship as an alternative disposition to a complaint initiated by the Division pursuant to N.J.S.A. 9:6-8.21 or N.J.S.A. 30:4C-15, the Division shall not be required to file a new petition, but may amend the pending complaint in accordance with the Rules of Court. When it appears to the court by Affidavit of Diligent Inquiry filed in the action initiated by the Division that any proper party, including a legal or putative parent, cannot be located, the court shall assume jurisdiction and proceed to hear the matter summarily pursuant to R. 5:12-2. It shall be sufficient to serve parties in default by certified and regular mail at their last known address.

**Note:** Adopted July 12, 2002 as Rule 5:9A to be effective September 3, 2002; former text redesignated as paragraph (a), and new paragraphs (b) and (c) adopted July 28, 2004 to be effective September 1, 2004; redesignated as Rule 5:9A-2 and new caption added June 15, 2007 to be effective September 1, 2007; paragraph (c) amended July 9, 2013 to be effective September 1, 2013.

### **5:9A-3. Venue in Actions Concerning Kinship Legal Guardianship**

- **(a)** An action for kinship legal guardianship of a child pursuant to N.J.S.A. 3B:12A-1 to -6 shall be brought or the venue laid in the county where the caregiver resides. However, as set forth in R. [5:2-1(d)] 5:2-1(e), in cases where there is a pending action for child abuse/neglect pursuant to N.J.S.A. 9:6-8.21 et seq. or for termination of parental rights under N.J.S.A. 30:4C-15, venue will be determined in accordance with R. 5:9-1, that is, in the county where the child abuse/neglect or termination of parental rights action is pending.
- **(b)** An application to vacate or modify a judgment for kinship legal guardianship of a child brought pursuant to N.J.S.A. 3B:12A-6(f) shall be brought or the venue laid in the county where the judgment of kinship legal guardianship was originally granted. A motion to change venue may be brought pursuant to R. 4:3-3 and shall be liberally granted.

**Note:** Adopted June 15, 2007 to be effective September 1, 2007; paragraph (a) amended July 16, 2009 to be effective September 1, 2009; paragraph (b) amended July 9, 2013 to be effective September 1, 2013.